

TASMANIA

**END-OF-LIFE CHOICES (VOLUNTARY ASSISTED
DYING) BILL 2020**

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END-OF-LIFE CHOICES (VOLUNTARY ASSISTED DYING) BILL 2020

This Public Bill originated in the Legislative Council, and, having this day passed, is now ready for presentation to the House of Assembly for its concurrence.

D. T. Pearce, *Clerk of the Council*
10 November 2020

(Brought in by the Honourable Michael Victor Gaffney)

A BILL FOR

An Act to provide for, and regulate access to, voluntary assisted dying, to establish the Voluntary Assisted Dying Commission, and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *End-of-Life Choices (Voluntary Assisted Dying) Act 2020*.

2. Commencement

This Act commences on a day to be proclaimed, but if this Act has not commenced before 18 months after the day on which it receives the Royal Assent it commences at the end of that 18-month period.

3. Objectives and principles

- (1) The objectives of this Act are –
 - (a) to provide, to persons who are eligible to access voluntary assisted dying, an efficient and effective process to enable them to exercise their choice to reduce their suffering by ending their lives legally; and
 - (b) to ensure that the process provided for the exercise of that choice protects and prevents persons from having their lives ended unwittingly or unwillingly; and
 - (c) to provide legal protection for registered health practitioners who choose to assist, or who choose not to assist, such persons to exercise their choice to end their lives in accordance with that process.
- (2) A person exercising a power or performing a function under this Act must have regard to the following principles:
 - (a) every human life has equal value;
 - (b) a person's autonomy, including autonomy in respect of end of life choices, should be respected;
 - (c) a person has the right to be supported in making informed decisions about the person's medical treatment, and should be given, in a manner the person understands, information about medical

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treatment options, including comfort and palliative care and treatment;

- (d) a person approaching the end of life should be provided with high quality care and treatment, including palliative care and treatment, to minimise the person's suffering and maximise the person's quality of life;
- (e) a therapeutic relationship between a person and the person's registered health practitioner should, wherever possible, be supported and maintained;
- (f) a person should be encouraged to openly discuss death and dying, and the person's preferences and values regarding their care, treatment and end of life should be encouraged and promoted;
- (g) a person should be supported in conversations with the person's registered health practitioner, family and carers and community about treatment and care preferences;
- (h) a person is entitled to genuine choices about the person's care, treatment and end of life, irrespective of where the person lives in Tasmania and having regard to the person's culture and language;
- (i) a person who is a regional resident is entitled to the same level of access to

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voluntary assisted dying as a person who lives in a metropolitan region;

- (j) there is a need to protect persons who may be subject to abuse or coercion;
- (k) all person, including registered health practitioners, have the right to be shown respect for their culture, religion, beliefs, values and personal characteristics.

4. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – INTERPRETATION PROVISIONS

5. Interpretation

In this Act, unless the contrary intention appears –

AHP, in relation to a person, means the person –

- (a) who is, under section 61, the person’s administering health practitioner; and
- (b) who has not ceased, under section 109, to be the person’s AHP;

approved means approved by the Commission;

approved voluntary assisted dying training means a course of voluntary assisted dying training approved by the Commission under section 116;

authorised medical practitioner, in relation to a person, means a person who is, under section 9, an authorised medical practitioner in relation to the person;

CMP, in relation to a person, means a person –

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- (a) who is, under section 42, the person's consulting medical practitioner; and
- (b) who has not ceased, under section 108, to be the person's CMP;

Commission means the Voluntary Assisted Dying Commission established by section 110(1);

contact person, in relation to a person, means a person who is appointed under section 85 to be the contact person in relation to the person;

decision-making capacity – see section 12;

Deputy Executive Commissioner means the Deputy Executive Commissioner appointed under section 110(2)(b);

driver licence means a licence, permit or other authorisation issued under an Act of this State, another State, or a Territory, authorising a person to drive;

eligible to access voluntary assisted dying – see section 10;

Executive Commissioner means the person appointed to be the Executive Commissioner under section 110(2)(a) and includes the Deputy Executive Commissioner, when acting as the Executive Commissioner;

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final permission, in relation to a person, means a final permission given by the person under section 82;

final request, in relation to a person, means a final request made by the person under section 53;

first request, in relation to a person, means a first request made by the person under section 18(1);

health service has the same meaning as in the *Tasmanian Health Service Act 2018*;

medical practitioner means a person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession (other than a student) and who is not a psychiatrist;

member of the Commission means a person appointed to the Commission under section 110, including the Executive Commissioner and the Deputy Executive Commissioner;

member of the family, in relation to a person, means a person who is –

- (a) the father, mother, grandfather or grandmother of the person; or
- (b) the spouse of the person; or
- (c) a brother, sister, niece or nephew of the person; or

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- (d) a person in a family relationship, within the meaning of the *Relationships Act 2003*, with the person; or
- (e) a person in a caring relationship, within the meaning of the *Relationships Act 2003*, with the person; or
- (f) a child, or grandchild, of the person;

nurse practitioner means a person who is registered under the Health Practitioner Regulation National Law (Tasmania) in the nursing profession and who is endorsed by the Nursing and Midwifery Board of Australia to practise as a nurse practitioner;

officer of the Ambulance Service has the same meaning as in the *Ambulance Service Act 1982*;

pharmacist means a person who holds general registration under the Health Practitioner Regulation National Law (Tasmania) in the pharmacy profession (other than a student);

PMP, in relation to a person, means a person –

- (a) who becomes, under section 22 or section 59(5), the person’s primary medical practitioner; and

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- (b) who has not ceased, under section 106, to be the person's PMP;

private self-administration certificate, in relation to a person, means a private self-administration certificate completed and signed under section 84 by the person's AHP;

private self-administration request, in relation to a person, means a private self-administration request given by the person under section 83(1);

professional care service means any of the following services provided to another person under a contract of employment or contract for services:

- (a) assistance or support, including the following:
- (i) assistance with bathing, showering, personal hygiene, toileting, dressing, undressing or preparing or eating meals;
 - (ii) assistance for persons with mobility problems;
 - (iii) assistance for persons who are mobile but required some form of assistance or supervision;

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(iv) assistance or supervision
in administering
medicine;

(v) the provision of
substantial emotional
support;

(b) a specialist disability service,
within the meaning of the
Disability Services Act 2011;

psychiatrist means a person registered under
the Health Practitioner Regulation
National Law (Tasmania) as a medical
practitioner in the speciality of psychiatry
(other than as a student);

psychologist means a person registered under
the Health Practitioner Regulation
National Law (Tasmania) to practise
psychology (other than as a student);

reasonably available treatment, in relation to
a person, means treatment available to
the person in Australia within a
reasonable time and at a cost to the
person that is not prohibitive;

registered health practitioner means a person
registered under the Health Practitioner
Regulation National Law (Tasmania) to
practise a health profession (other than as
a student);

registered nurse means a person registered
under the Health Practitioner Regulation

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National Law (Tasmania) in the nursing profession whose name is entered on Division 1 of the Register of Nurses, kept under that Law, as a registered nurse;

relevant facts in relation to accessing voluntary assisted dying – see section 8;

relevant information about eligibility, in relation to a person, means the relevant information about eligibility, specified in section 7, in relation to the person;

relevant medical condition – see section 6;

request, in relation to a person, means –

- (a) a first request from the person; or
- (b) a second request from the person;
or
- (c) a final request from the person;

residency requirements – see section 11;

residential care provider, in relation to a person, means a person who owns or operates premises at which –

- (a) the first-mentioned person resides; and
- (b) health services are, or may be, provided to the first-mentioned person by, or on behalf of, the person who owns or operates the premises;

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second request, in relation to a person, means a second request made by the person under section 30(1);

spouse, in relation to a person, means –

- (a) the husband or wife of the person; and
- (b) a person in a significant relationship, within the meaning of the *Relationships Act 2003*, with the person;

VAD substance means a substance that is determined by the Commission under section 115 to be a VAD substance;

VAD substance authorisation, in relation to a person, means a VAD substance authorisation, in relation to the person, that is issued under section 67(1)(a);

VAD substance prescription means a VAD substance prescription issued by a PMP under section 70(1)(a);

voluntary assisted dying means the administration to a person, or the self-administration by a person, of a VAD substance under this Act;

voluntary assisted dying process, in relation to a person, means the following:

- (a) the making of a first request by the person under section 18;

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- (b) the acceptance of, or refusal to accept, under section 19, a first request made by the person under section 18;
 - (c) a determination under section 26 of a first request made by the person;
 - (d) the making of a second request by the person under section 30;
 - (e) a determination under section 33 of a second request by the person;
 - (f) a referral of the person, under section 37, by the person’s PMP;
 - (g) the giving by the person of permission for the purposes of section 38(2);
 - (h) the acceptance of, or the refusal to accept, under section 39, a referral of the person;
 - (i) a determination under section 47 in relation to the person;
 - (j) the making by the person of a final request under section 53;
 - (k) a determination under section 55 of a final request made by the person;
 - (l) the giving of advice to the person under section 60;

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- (m) a request to the Commission under section 66(1) for a VAD substance authorisation in relation to the person;
- (n) the determination under section 67 by the Commission of a request for a VAD substance authorisation in relation to the person;
- (o) the issue under section 70 of a VAD substance prescription, in relation to the person;
- (p) the supply under section 71, to the PMP in relation to the person, of a VAD substance;
- (q) the supply, to the person's AHP, under section 74, of a VAD substance by the person's PMP;
- (r) the making of a determination under section 78 in relation to the person and the giving to the person of a notice or advice under section 80 or 81 by the person's AHP;
- (s) the giving by the person of a final permission under section 82;
- (t) the giving by the person of a private self-administration request under section 83(1);

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- (u) the completion of a private self-administration certificate in relation to the person under section 84;
 - (v) the appointment by the person under section 85 of the contact person in relation to the person;
 - (w) the supply of a VAD substance under section 86 or section 89 by the person’s AHP;
 - (x) the administration under section 86, by the person’s AHP, of a VAD substance to the person or the self-administration by the person of a VAD substance in accordance with section 91(3).

6. Relevant medical condition

- (1) For the purposes of this Act –

relevant medical condition, in relation to a person, means a disease, illness, injury, or medical condition, of the person that –

- (a) is advanced, incurable and irreversible; and
- (b) is expected to cause the death of the person; and
- (c) except if the person is exempted from this requirement under

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subsection (3), is expected to
cause the death of the person –

(i) within 6 months; or

(ii) if the disease is
neurodegenerative –
within 12 months.

- (2) For the purposes of this Act, a disease, illness, injury, or medical condition, of a person is incurable and irreversible and is expected to cause the death of the person if there is no reasonably available treatment that –
- (a) is acceptable to the person; and
 - (b) can cure or reverse the disease, illness, injury or medical condition and prevent the expected death of the person from the disease, illness, injury or medical condition.
- (3) The Commission, on the application of a person, may determine that the person is exempted from the requirement of paragraph (c) of the definition of *relevant medical condition* in subsection (1).
- (4) The Commission may only determine that a person is exempted from the requirement of paragraph (c) of the definition of *relevant medical condition* in subsection (1) if the Commission is satisfied that the prognosis of the person's relevant medical condition is such that the paragraph should not apply in relation to the person.

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- (5) The Commission may, so as to assist the Commission to decide whether or not to make a determination under subsection (2) in relation to the person –
- (a) request a medical practitioner, who has specialist knowledge as to a relevant medical condition that is a relevant medical condition in relation to a person, to advise the Commission in relation to the relevant medical condition; and
 - (b) request a medical practitioner to provide to the Commission medical records, in the possession of the medical practitioner, in relation to the person.

7. Relevant information about eligibility

For the purposes of this Act, *the relevant information about eligibility*, in relation to a person, is information as to –

- (a) whether the person has attained the age of 18 years; and
- (b) whether the person meets the residency requirements; and
- (c) whether the person has decision-making capacity; and
- (d) whether the person is acting voluntarily; and

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- (e) whether the person is suffering intolerably in relation to a relevant medical condition; and
- (f) the prognosis in relation to –
 - (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person; and
 - (ii) any complications of a medical kind that have arisen in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person; and
- (g) the reasonably available treatment that may relieve the mental or physical suffering of the person that is related to (or that occurs in anticipation of the suffering, or in expectation, based on medical advice, of the suffering, that might arise from) –
 - (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person; or
 - (ii) the treatment of the relevant medical condition or the combination of that treatment with the treatment of other

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medical conditions of the person;
or

- (iii) complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person.

8. Relevant facts in relation to accessing voluntary assisted dying

For the purposes of this Act, the *relevant facts in relation to accessing voluntary assisted dying* are information, in an approved form, that includes the following:

- (a) information as to the operation of this Act;
- (b) information as to how the person's eligibility to access voluntary assisted dying is to be determined;
- (c) information as to the functions of the Commission and contact details for the Commission;
- (d) information as to what assistance to die the person may receive from a PMP or an AHP;

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- (e) information as to where advice in relation to palliative care, or other treatment or pain relief, may be obtained.

9. Authorised medical practitioners

For the purposes of this Act, a person is an authorised medical practitioner in relation to a person if –

- (a) the person is registered under the Health Practitioner Regulation National Law (Tasmania) in the medical profession (other than a student); and
- (b) the person –
 - (i) is a vocationally registered general practitioner; or
 - (ii) holds a fellowship with a specialist medical college; and
- (c) the person has relevant experience in treating or managing the medical condition expected to cause the death of the person; and
- (d) the medical practitioner has successfully completed an approved voluntary assisted dying training course within the 5-year period immediately before the person makes a first request to the medical practitioner under section 18 or is referred to the medical practitioner under section 37(1); and

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- (e) the medical practitioner is not a member of the family of the person; and
- (f) the medical practitioner does not know or believe that he or she is likely to, either directly or indirectly, benefit from, or directly or indirectly receive a financial benefit as a result of, the death of the person, other than by receiving reasonable fees for the provision of services as the PMP, CMP or AHP of the person.

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Part 3 – When Person May Access Voluntary Assisted Dying

**PART 3 – WHEN PERSON MAY ACCESS
VOLUNTARY ASSISTED DYING**

10. When person is eligible to access voluntary assisted dying

- (1) For the purposes of this Act, a person is eligible to access voluntary assisted dying if –
 - (a) the person has attained the age of 18 years; and
 - (b) the person meets the residency requirements; and
 - (c) the person has decision-making capacity; and
 - (d) the person is acting voluntarily; and
 - (e) the person is suffering intolerably in relation to a relevant medical condition.
- (2) For the purposes of this Act, a person is not eligible to access voluntary assisted dying by reason only that the person –
 - (a) has a mental illness, within the meaning of the *Mental Health Act 2013*; or
 - (b) has a disability, within the meaning of the *Disability Services Act 2011*.

11. When person meets residency requirements

- (1) For the purposes of this Act, a person meets the residency requirements if –

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- (a) the person –
- (i) is an Australian citizen; or
 - (ii) is a permanent resident of Australia; or
 - (iii) has been resident in Australia for at least 3 continuous years immediately before the person makes the relevant first request; and
- (b) the person has been ordinarily resident in Tasmania for at least 12 continuous months immediately before the person makes the relevant first request.
- (2) If a person's PMP is unable to determine if the person meets the residency requirements, the person's PMP may request the Commission to advise the PMP as to whether the person meets the residency requirements.
- (3) The Commission may, after receiving a request under subsection (2) from a person's PMP, advise the PMP, in writing, that the person –
- (a) meets the residency requirements; or
 - (b) does not meet the residency requirements.
- (4) If the Commission, under subsection (3) –
- (a) advises a person's PMP that the person meets the residency requirements, the person is to be taken for the purposes of

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this Act to meet the residency requirements; or

- (b) advises a person's PMP that the person does not meet the residency requirements, the person is to be taken for the purposes of this Act not to meet the residency requirements, unless and until the Commission issues a subsequent advice under this section.
- (5) For the purposes of this Act, evidence of a person being, or not being, at a particular time, ordinarily resident in Tasmania includes, but is not limited to including, evidence of any of the following:
- (a) the day on which the person was issued a driver licence under an Act of the State, or an Act of another State or a Territory;
 - (b) the day on which the person became, under an Act of the Commonwealth or the State, enrolled to vote for a member of the Tasmanian parliament or for a member of the Commonwealth parliament who is to represent Tasmania;
 - (c) the day on which the person became, under an Act of the Commonwealth or of another State or a Territory, enrolled to vote for a member of the parliament of another State or a Territory or to vote for a member of the Commonwealth parliament who is to represent another State or a Territory;

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- (d) the day on which the person purchased property, entered into a lease of property or entered into, under the *Residential Tenancy Act 1997*, a residential tenancy agreement;
 - (e) the existence of a lease, granted by or to the person, in relation to residential premises situated in another State or a Territory;
 - (f) the existence of a statutory declaration from the person as to where, at a particular time, the person is or was ordinarily resident.

12. When person has decision-making capacity

- (1) For the purposes of this Act, a person has decision-making capacity in relation to a decision for the purposes of this Act if, when the person makes the decision, the person has the capacity to –
 - (a) understand the information or advice that is reasonably required in order to be able to make the decision; and
 - (b) remember such information or advice to the extent necessary to make the decision; and
 - (c) use or evaluate the information or advice for the purposes of making the decision; and

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- (d) communicate the decision, and the person's opinions in relation to the decision, whether by speech, in writing, by gesture or by other means.
- (2) For the purposes of subsection (1) –
- (a) a person is to be taken to have decision-making capacity in relation to a decision unless there is evidence to the contrary; and
 - (b) a person is taken to understand information and advice in relation to the making of a decision if it reasonably appears that he or she is able to understand an explanation of the consequences of making the decision.
- (3) In determining whether or not a person has decision-making capacity in relation to a decision, regard must be had to each of the following:
- (a) a person may have the capacity to make some decisions and not others;
 - (b) a person's lack of capacity to make a decision may be temporary and not permanent;
 - (c) an assumption that a person does not have the capacity to make a decision should not be made –
 - (i) on the basis of the person's appearance; or

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- (ii) because the person makes a decision that another person may consider to be unwise.
- (4) If a person's CMP, PMP or AHP is unable to determine whether the person has decision-making capacity in relation to a decision, the CMP, PMP, or AHP, respectively, must refer the person, under section 25, section 32, section 46, section 54 or section 79, as the case may be, to a medical practitioner, psychiatrist, or psychologist, who has the skills and training that are appropriate to make such a determination.
- (5) If a CMP, PMP or AHP refers a person in accordance with subsection (4) to another person, the CMP, PMP or AHP may adopt, for the purposes of the decision of the CMP, PMP or AHP in relation to which the person was referred to the other person, the decision of the other person as to whether the person has decision-making capacity at that time.

13. When person is acting voluntarily

For the purposes of this Act, a person is acting voluntarily if the person is not acting under duress, coercion or because of a threat of punishment or unfavourable treatment, or a promise to give a reward or benefit, to the person or another person.

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14. When person is suffering intolerably in relation to relevant medical condition

For the purposes of this Act, a person is suffering intolerably in relation to a relevant medical condition if –

- (a) the person has a relevant medical condition; and
- (b) persistent suffering that is, in the opinion of the person, intolerable is being caused to the person by any one or more of the following:
 - (i) the relevant medical condition or the relevant medical condition together with the person’s other medical conditions;
 - (ii) anticipation of the suffering, or expectation, based on medical advice, of the suffering, that may arise from the relevant medical condition or from the relevant medical condition together with the person’s other medical conditions;
 - (iii) the treatment that the person has received or the combination of that treatment with the treatment of other medical conditions of the person;
 - (iv) anticipation of the suffering, or expectation, based on medical

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- advice, of the suffering, that may arise from the treatment that the person may receive in relation to the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions;
- (v) the complications of a medical kind arising from, or related to, the treatment of the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions;
 - (vi) anticipation of the suffering, or expectation, based on medical advice, of the suffering, that may arise from the complications of a medical kind arising from, or related to, the treatment of the relevant medical condition or the combination of that treatment with the treatment of the person's other medical conditions; and
- (c) there is no reasonably available treatment that, having regard to both the treatment and the consequences, including side effects of the treatment, is reasonably likely to –
- (i) improve the person's relevant medical condition, or overall health and wellbeing, in a

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manner, to an extent, and in a period of time, that is acceptable to the person; and

- (ii) in the opinion of the person, lessen the person's suffering to an extent that is acceptable to the person.

**PART 4 – COMMUNICATION IN RELATION TO
ACCESS TO VOLUNTARY ASSISTED DYING**

15. When person’s communication under Act may be made by another person

(1) In this section –

relevant communication means any of the following:

- (a) a first request;
- (b) a statement to a relevant practitioner under section 16;
- (c) the designation of a person, under section 18(3), section 30(3)(a)(ii), section 53(3)(b), section 82(1)(b), section 83(2)(b)(ii) or section 85(2)(b), to complete and sign, or complete or sign, a document on another person’s behalf;
- (d) a permission given by a person for the purposes of section 38(2)(b);
- (e) any other communication made to a relevant practitioner, in relation to a communication referred to in another paragraph of this definition;

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- (f) any other communication made as part of, or in relation to, the voluntary assisted dying process;

relevant practitioner, in relation to a person, means the PMP, CMP or AHP in relation to the person.

- (2) A relevant communication that may be made or given by a person (the ***VAD person***) to a relevant practitioner under this Act may, if –

- (a) the VAD person is unable to communicate to a person who is unfamiliar with the VAD person's method of communication; and

- (b) the VAD person's means of communication is comprehensible to another person who is familiar with the VAD person or the method of communication –

be made to the relevant practitioner by the other person, if the relevant practitioner is satisfied as to the relevant matters in relation to the VAD person and the other person.

- (3) A relevant communication that may be made or given by a person (the ***VAD person***) to a relevant practitioner under this Act may, if the VAD person is unable to communicate to the relevant practitioner in a language in which both the VAD person and the relevant practitioner are fluent, be made by another person who is fluent in that language, if the relevant practitioner is

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satisfied as to the relevant matters in relation to the VAD person and the other person.

- (4) For the purposes of this section, the relevant practitioner is satisfied as to the relevant matters in relation to a VAD person and the other person if the relevant practitioner is satisfied that –
- (a) the VAD person has decision-making capacity; and
 - (b) the VAD person wishes the other person to make relevant communications on behalf of the VAD person; and
 - (c) the other person –
 - (i) is not a member of the family of the VAD person; and
 - (ii) where subsection (3) applies in relation to the other person – is a person who is accredited by a prescribed body as a translator in the relevant language; and
 - (iii) does not know or believe that he or she is likely to directly or indirectly benefit from, or receive a financial benefit, directly or indirectly, as a result of the death of, the VAD person; and
 - (iv) is not a residential care provider in relation to the VAD person; and

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- (v) is not directly involved in providing health services or professional care services to the VAD person; and
 - (d) the VAD person is acting voluntarily in wishing the other person to make relevant communications on behalf of the VAD person.
- (5) Despite subsection (4)(c), a subparagraph of that subsection does not apply in relation to a person if the Commission is satisfied that there are reasonable grounds why the subparagraph ought not to apply in relation to the person.
- (6) If a relevant communication that may be made or given by a person under this Act may, under this section, be made or given by another person, the relevant communication may be made or given orally or in writing by the other person.
- (7) A person may not be designated under section 18(3), section 30(3)(a)(ii), section 53(3)(b), section 82(1)(b), section 83(2)(b)(ii) or section 85(2)(b) to complete and sign, or complete or sign, a document on another person's behalf, if the person so designated is the person who makes a relevant communication under this section designating the person.

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16. Person may withdraw from voluntary assisted dying process at any time

- (1) A person may at any time, orally or in writing, inform the person's PMP or AHP that the person no longer wishes to access voluntary assisted dying.
- (2) If a person's PMP or AHP is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying, the voluntary assisted dying process, begun by the making of the first request by the person, ceases in relation to the person.
- (3) Nothing in subsection (2) is to be taken to prevent a person from making another first request and the voluntary assisted dying process from beginning again, accordingly, in relation to the person.
- (4) A person's PMP who is not the person's AHP must, if the PMP is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying, as soon as reasonably practicable but in any case within 2 days –
 - (a) make a record, in the person's medical record, that the person no longer wishes to access voluntary assisted dying; and
 - (b) notify the person's AHP, if any, that the person no longer wishes to access voluntary assisted dying; and

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- (c) notify the person’s CMP, if any, that the person no longer wishes to access voluntary assisted dying; and
 - (d) notify the Commission, in the approved form, that the person no longer wishes to access voluntary assisted dying.
- (5) A person’s AHP who is informed by the person under subsection (1) that the person no longer wishes to access voluntary assisted dying must, as soon as reasonably practicable but in any case within 2 days –
 - (a) if the AHP is a medical practitioner, make a record, in the medical records kept by the practitioner in relation to the person, that the person no longer wishes to access voluntary assisted dying; and
 - (b) if the AHP is not the person’s PMP, notify the person’s PMP that the person no longer wishes to access voluntary assisted dying; and
 - (c) notify the Commission, in the approved form, that the person no longer wishes to access voluntary assisted dying.
- (6) If a person’s PMP has been notified under subsection (5)(b) by the person’s AHP that the person no longer wishes to access voluntary assisted dying, the PMP must, as soon as reasonably practicable but in any case within 2 days –

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- (a) make a record, in the medical records kept in relation to the person by the PMP, that the person no longer wishes to access voluntary assisted dying; and
- (b) notify the person’s CMP, if any.

17. Certain persons not to initiate discussions about voluntary assisted dying

- (1) A registered health practitioner who provides health services or professional care services to a person must not, in the course of providing the services to the person –
 - (a) initiate discussion with the person that is in substance about the voluntary assisted dying process; or
 - (b) in substance, suggest to the person that the person may wish to participate in the voluntary assisted dying process
- (2) Nothing in subsection (1) prevents a medical practitioner from taking an action referred to in subsection (1) if, at the time of taking the action, the medical practitioner also informs the person about –
 - (a) the treatment options available to the person and the likely outcomes of that treatment; and
 - (b) the palliative care and treatment options available to the person and the likely outcomes of that care and treatment.

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- (3) Nothing in subsection (1) prevents a registered health practitioner who is not a medical practitioner from taking an action referred to in subsection (1) in relation to a person if the registered health practitioner, before the conclusion of the discussion, with the person, in which the action is taken, informs the person that a medical practitioner would be the most appropriate person with whom to discuss the voluntary assisted dying process and care and treatment options for the patient.
- (4) Nothing in subsection (1) prevents a person from providing to a person, at the person's request, information about the voluntary assisted dying process.
- (5) A contravention of subsection (1) by a registered health practitioner is capable of constituting unprofessional conduct for the purposes of the Health Practitioner Regulation National Law (Tasmania).

PART 5 – FIRST REQUEST

Division 1 – Making and acceptance of first request

18. Person may make first request to access voluntary assisted dying

(1) A person –

(a) who has received from a medical practitioner the relevant facts in relation to accessing voluntary assisted dying; and

(b) who wishes to access voluntary assisted dying –

may, orally or in writing, request the medical practitioner to determine whether the person is eligible to access voluntary assisted dying.

(2) A person is not to be taken to have made a request under subsection (1) to a medical practitioner unless –

(a) the person has received the relevant facts in relation to accessing voluntary assisted dying from the medical practitioner in person and not by way of audio-visual link; and

(b) where the request is made orally, the person has clearly indicated to the medical practitioner, in person and not by way of audio-visual link, that the person wishes to access voluntary assisted dying.

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- (3) A written request under subsection (1) to a medical practitioner may be made by an instrument in writing signed –
 - (a) by the person; or
 - (b) if the person is unable to complete or sign the instrument – by an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person’s behalf.
- (4) A person who makes a request under subsection (1) to a medical practitioner is taken for the purposes of this Act to have made a first request to the medical practitioner.
- (5) If a person has attempted to make under subsection (1) a request to the medical practitioner but has not received from the medical practitioner the relevant facts in relation to accessing voluntary assisted dying, the medical practitioner must give to the person the relevant facts in relation to accessing voluntary assisted dying.

19. Medical practitioner must accept or refuse to accept first request

A medical practitioner to whom a first request is made by a person must, within 48 hours –

- (a) accept the request; or
- (b) refuse to accept the request.

20. Refusal to accept first request

- (1) A medical practitioner to whom a first request is made by a person must refuse under section 19(b) to accept the request if the medical practitioner is not an authorised medical practitioner in relation to the person.
- (2) A medical practitioner to whom a first request is made by a person may refuse under section 19(b) to accept the request for any reason, including, but not limited to, because the medical practitioner has a conscientious objection to providing assistance to the person to die.
- (3) A medical practitioner who refuses under section 19(b) to accept a first request from a person must, as soon as reasonably practicable but in any case within 7 days, note on the medical practitioner's medical records in relation to the person that the person has made a first request and that the medical practitioner has refused to accept the request.

21. Medical practitioner not required to give reasons for accepting or refusing request

A medical practitioner to whom a first request is made by a person may, but is not required to, provide to any person reasons for accepting, or refusing to accept, the request.

Division 2 – Effect of acceptance of first request

22. Medical practitioner who accepts first request becomes PMP

A medical practitioner who accepts under section 19(a) a first request from a person under section 18(1) becomes the person's primary medical practitioner (the person's **PMP**).

23. Notification of acceptance of first request

A person's PMP must, as soon as reasonably practicable, but in any case within 7 days, after accepting under section 19(a) a first request from the person –

- (a) notify the person of the acceptance of the first request; and
- (b) note on the medical practitioner's medical records in relation to the person that the medical practitioner has accepted a first request from the person; and
- (c) notify the Commission, in the approved form, that the medical practitioner has accepted a first request from the person.

24. Person who makes first request is to be provided with relevant information about eligibility

- (1) A person's PMP must, before determining under section 26 a first request from the person, give to

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the person the relevant information in relation to the person's first request.

- (2) The relevant information in relation to a person's first request is –
- (a) information as to –
 - (i) the relevant medical condition of the person and any other medical conditions of the person that may affect the relevant medical condition or its treatment; and
 - (ii) treatment of the relevant medical condition that has been, or may be, administered to the person; and
 - (iii) treatment, of other medical conditions of the person, that may have affected, or may affect, the relevant medical condition or its treatment and that has been, or may be, administered to the person; and
 - (b) information as to any complications of a medical kind that have arisen, or that may arise, from the treatment of the relevant medical condition or other medical conditions of the person; and
 - (c) the prognosis in relation to –
 - (i) the relevant medical condition or the relevant medical condition

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- together with other medical conditions of the person; and
- (ii) any complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person; and
- (d) information as to reasonably available treatment that may relieve the suffering of the person that is related to any of the following or to anticipation of suffering, or expectation, based on medical advice, of suffering, that may arise from any of the following:
- (i) the relevant medical condition or the relevant medical condition together with other medical conditions of the person;
 - (ii) the treatment of the relevant medical condition or the combination of that treatment with the treatment of other medical conditions of the person;
 - (iii) complications of a medical kind that have arisen, or may arise, in relation to the treatment of the relevant medical condition or its treatment or the combination of

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that treatment with the treatment
of other medical conditions of the
person; and

- (e) any information as to palliative care that
may reasonably be able to be provided to
the person.
- (3) As soon as reasonably practicable, but in any
case within 7 days, after giving to a person the
relevant information in relation to the person's
first request, the person's PMP is to give, to the
Commission, notice, in the approved form, that
the PMP has given to the person that
information.

25. PMP may refer person, request information, &c.

A person's PMP may, for the purpose of
enabling the PMP to determine the first request
from the person, do any one or more of the
following:

- (a) refer the person to another medical
practitioner for examination;
- (b) request the person to provide to the PMP
all information that the PMP reasonably
requires in order to make the
determination;
- (c) request a medical practitioner to provide
to the PMP copies of the medical records
of the person that are in the possession of
the medical practitioner and that the PMP

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reasonably requires in order for the PMP to make the determination;

- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person whom the PMP thinks fit, to provide to the PMP the information that the PMP reasonably requires in order to make the determination.

Division 3 – Determination of first request

26. PMP to determine first request

A person's PMP is to determine a first request from the person by –

- (a) determining that the person is eligible to access voluntary assisted dying; or
- (b) determining that the person is not eligible to access voluntary assisted dying.

27. Requirements in relation to determination of first request

- (1) A person's PMP must not make a determination under section 26 of a first request made by the person unless –
 - (a) the PMP has, after accepting under section 19 the first request from the person, met the person, in person or by way of audio-visual link; and

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- (b) the PMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under section 12(5) the decision of another person in relation to the decision-making capacity of the person.
- (2) A person's PMP –
- (a) must not determine under section 26(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to enable the PMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to determine under section 26 the first request by the person until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 26(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 26 a first request by the person by determining under section 26(a) that the person is eligible to access voluntary assisted dying, if the PMP is satisfied that the person is eligible under section 10 to access voluntary assisted dying.

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- (4) If a person's PMP determines under section 26 a first request by the person by determining under section 26(a) that the person is eligible to access voluntary assisted dying, the PMP must, if the person consents –
- (a) provide to a member of the family of the person, if any, the relevant facts in relation to accessing voluntary assisted dying; and
 - (b) take all reasonable steps to explain to a member of the family of the person, if any, the plan for the person to access voluntary assisted dying including, in particular, the arrangements to be made in relation to the body of the person if the person is intending to obtain a private self-administration certificate and self-administer a VAD substance without the person's AHP being present.

28. Determination of first request to be in writing

A determination under section 26 of a first request by a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

29. Records and notifications of determination of first request

A person's PMP who has made a determination under section 26 in relation to the person must,

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as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the PMP’s determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place, on the PMP’s medical records in relation to the person, the determination or a copy of the determination; and
- (c) give to the Commission a copy of the determination.

PART 6 – SECOND REQUEST

Division 1 – Making of second request

30. Person may make second request

- (1) A person may, if the person's PMP has determined a first request from the person by determining under section 26(a) that the person is eligible to access voluntary assisted dying, make a second request to the PMP to determine whether the person is eligible to access voluntary assisted dying (a ***second request***).
- (2) A person must not make a second request to the person's PMP within 48 hours of the person having made a first request to the PMP, unless, in the opinion of the PMP –
 - (a) the person is likely to die within 7 days;
or
 - (b) the person is likely to cease to have decision-making capacity within 48 hours.
- (3) A person makes under subsection (1) a second request to the person's PMP by providing to the PMP an instrument in writing in the approved form –
 - (a) completed, and signed, by –
 - (i) the person; or
 - (ii) if the person is unable to complete or sign the instrument –

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an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf; and

- (b) witnessed, in the presence of the person, by at least 2 adults, or by a commissioner for declarations, within the meaning of the *Oaths Act 2001*, who have observed the instrument being completed and signed in accordance with paragraph (a).
- (4) A person must not designate, under subsection (3)(a)(ii), the person's PMP to complete or sign, or complete and sign, a second request on the person's behalf.

31. Certain persons may not witness a second request

- (1) One of the witnesses, or the commissioner for declarations, within the meaning of the *Oaths Act 2001*, to a person's second request must not be any one or more of the following persons:
 - (a) a member of the family of the person;
 - (b) a person who, at the time of witnessing the request, knows or believes that he or she is likely to, either directly or indirectly benefit from, or receive a financial benefit, directly or indirectly, as a result of, the death of the person, other than by receiving reasonable fees for the provision of services to the person to whom the request relates;

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- (c) a person who is a residential care provider in relation to the person or an employee or agent of a residential care provider in relation to the person;
 - (d) a person who is a resident in the facility, owned or operated by a residential care provider in relation to the person, in which the person making the request resides.
- (2) The following persons must not be a witness to a person's second request:
- (a) the person's PMP or CMP;
 - (b) another person who completes or signs, or completes and signs, the second request for and on behalf of the person making the second request.

Division 2 – Determination of second request

32. PMP may refer person, request further information, &c.

A person's PMP may, for the purpose of enabling the PMP to determine the second request of the person, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to give to the PMP all information that the PMP may

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reasonably require in order to make the determination;

- (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of the medical practitioner and that the PMP may reasonably require in order for the PMP to make the determination;
- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person whom the PMP thinks fit, to give to the PMP the information that the PMP may reasonably require in order to make the determination.

33. Determination of second request

A person's PMP to whom a second request is made by the person under section 30 must determine the request by –

- (a) determining that the person is eligible to access voluntary assisted dying; or
- (b) determining that the person is not eligible to access voluntary assisted dying.

34. Requirements in relation to determination of second request

- (1) A person's PMP must not make a determination under section 33 of a second request made by the person unless –

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- (a) the PMP, after receiving the second request, has met the person, in person or by way of audio-visual link; and
 - (b) the PMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under section 12(5) the decision of another person in relation to the decision-making capacity of the person.
- (2) A person's PMP –
- (a) must not determine under section 33(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 33 until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 33(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 33 a second request by the person by determining under section 33(a) that the person is eligible to access voluntary assisted dying, if

the PMP is satisfied that the person is eligible under section 10 to access voluntary assisted dying.

35. Determination of second request to be in writing and contain relevant information about eligibility

A determination under section 33 of a second request by a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

36. Records and notifications of determination of second request

A person's PMP who makes a determination under section 33 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place on the PMP's medical records in relation to the person the determination or a copy of the determination; and
- (c) give to the Commission a copy of the determination.

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Part 7 – Referral to Medical Practitioner for Second Opinion

**PART 7 – REFERRAL TO MEDICAL PRACTITIONER
FOR SECOND OPINION**

37. PMP who determines person eligible must refer person to medical practitioner for second opinion

- (1) A person's PMP who has determined a second request from the person by determining under section 33(a) that the person is eligible to access voluntary assisted dying must, in writing, refer the person to another medical practitioner for that medical practitioner to determine whether or not the person is eligible to access voluntary assisted dying.
- (2) A person's PMP must not, under subsection (1), refer the person to another medical practitioner who is –
 - (a) a member of the family of the PMP; or
 - (b) employed by, contracted directly or indirectly by, or working under the supervision of, the PMP; or
 - (c) a person who is the employer of, has a direct or indirect contract with, or is a supervisor of, the PMP.
- (3) Subject to section 38, if a medical practitioner to whom a person is referred under subsection (1) –
 - (a) refuses under section 39(b) to accept the referral; or
 - (b) ceases under section 108 to be the person's CMP; or

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- (c) determines under section 47(b) that the person is not eligible to access voluntary assisted dying –

the PMP may refer the person to another medical practitioner under subsection (1).

38. Restrictions on referral to more than one medical practitioner

- (1) A person’s PMP must not refer the person under section 37(1) to a medical practitioner if 2 CMPs in relation to the person have determined a referral, made to them by the PMP under section 37(1), by determining under section 47(b) that the person is not eligible to access voluntary assisted dying.
- (2) A person’s PMP must not refer the person under section 37(1) to a medical practitioner after a CMP in relation to the person determines under section 47(b) that the person is not eligible to access voluntary assisted dying, unless the PMP –
 - (a) has informed the person of the determination by the CMP; and
 - (b) has obtained the permission of the person to the referral by the PMP, under section 37(1), of the person to another medical practitioner.

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Part 7 – Referral to Medical Practitioner for Second Opinion

39. Medical practitioner must accept or refuse to accept referral

A medical practitioner to whom a person is referred under section 37(1) by a PMP in relation to the person must, within 48 hours, by notice in writing to the PMP –

- (a) accept the referral; or
- (b) refuse to accept the referral.

40. Refusal to accept referral

- (1) A medical practitioner to whom a person is referred under section 37(1) must refuse to accept the referral if the medical practitioner is not an authorised medical practitioner in relation to the person.
- (2) A medical practitioner to whom a person is referred under section 37(1) may refuse to accept the referral for any reason, including, but not limited to, because the medical practitioner has a conscientious objection to providing assistance to the person to die.

41. Medical practitioner not required to give reasons for decision as to whether to accept referral

A medical practitioner to whom a person is referred under section 37 may, but is not required to, give to any person reasons for accepting, or refusing to accept, the referral.

**PART 8 – REQUIREMENTS WHERE REFERRAL
ACCEPTED**

**42. Medical practitioner who accepts referral becomes
CMP**

A medical practitioner who accepts under section 39(a) a referral of a person becomes the person’s consulting medical practitioner (the person’s *CMP*).

43. PMP to provide reports and information to CMP

If a medical practitioner becomes a person’s CMP, the person’s PMP person must, as soon as reasonably practicable but in any case within 7 days, give to the CMP a copy of –

- (a) all medical reports in relation to the person; and
- (b) other information in relation to the person –

that is or are in the possession of the PMP and that the CMP may reasonably require in order to make a determination as to whether the person is eligible to access voluntary assisted dying.

**44. CMP may examine person and seek further
information from person**

A person’s CMP may examine the person, and request the person to answer questions, in order to make a determination under section 47 as to

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whether the person is eligible to access voluntary assisted dying.

45. CMP may seek further information, &c., from PMP

A person's CMP who is of the opinion that the CMP does not have sufficient information to make a determination under section 47 in relation to the person may request the person's PMP to do any one or more of the following:

- (a) to give to the CMP a copy of any medical records, or information, in relation to the person, that is in the possession of the PMP;
- (b) to obtain from another person under section 46, and to give to the CMP, a copy of any medical records, or information, in relation to the person, so obtained by the PMP;
- (c) to refer the person under section 46(1) to another medical practitioner or another person and to give to the CMP a copy of any medical records or information, in relation to the person, obtained by the PMP from the medical practitioner or other person –

so that the CMP may have the information necessary to enable the CMP to make the determination.

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46. PMP may refer person, or request further information, &c., at request of CMP

- (1) A person's PMP may, for the purpose of enabling the person's CMP to determine the second request of the person, do any one or more of the following:
 - (a) refer the person to another medical practitioner for examination;
 - (b) request the person to give to the PMP all information that the CMP may reasonably require in order to make the determination;
 - (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of the medical practitioner and that the CMP may reasonably require in order for the CMP to make the determination;
 - (d) request a psychiatrist, psychologist, registered health practitioner or any other person whom the PMP thinks fit, to give to the PMP the information that the CMP may reasonably require in order to make the determination.
- (2) A person's CMP must not refer the person to a medical practitioner, other than the person's PMP, for the purpose of obtaining information necessary to make a determination under section 47 in relation to the person.

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PART 9 – SECOND OPINION AS TO ELIGIBILITY TO ACCESS VOLUNTARY ASSISTED DYING

Division 1 – CMP to determine eligibility to access voluntary assisted dying

47. CMP to determine whether person eligible to access voluntary assisted dying

The CMP of a person who has been referred under section 37 to the CMP must, by notice to the person's PMP –

- (a) make a determination that the person is eligible to access voluntary assisted dying; or
- (b) make a determination that the person is not eligible to access voluntary assisted dying.

48. Requirements in relation to determination by CMP

(1) A person's CMP must not make a determination under section 47 in relation to the referral of the person under section 37 unless –

- (a) the CMP, after accepting the referral, has met the person, in person or by way of audio-visual link; and
- (b) the CMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under

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section 12(5) the decision of another person in relation to the decision-making capacity of the person.

- (2) A CMP in relation to the person –
- (a) must not make a determination under section 47(b) that the person is not eligible to access voluntary assisted dying, by reason only that the CMP does not have sufficient information to enable the CMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 47 in relation to the person until the CMP has sufficient information to enable the CMP to make the determination; and
 - (c) must not make a determination under section 47(a) that the person is eligible to access voluntary assisted dying until the CMP has sufficient information to enable the CMP to make the determination.
- (3) A person's CMP must make a determination under section 47(a) that the person is eligible to access voluntary assisted dying, if the CMP is satisfied that the person is eligible under section 10 to access voluntary assisted dying.

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49. Determination of CMP to be in writing and contain relevant information about eligibility

A determination under section 47 in relation to a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

50. CMP to keep record of determination and notify Commission

- (1) A person's CMP who makes a determination under section 47 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –
 - (a) place on the CMP's medical records in relation to the person a copy of the determination; and
 - (b) give to the Commission a copy of the determination.
- (2) A person's PMP who has been given a notice under section 47 of a determination in relation to the person must, as soon as reasonably practicable, but in any case within 7 days –
 - (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and

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- (b) place on the PMP’s medical records in relation to the person the determination or a copy of the determination; and
- (c) give to the Commission a copy of the determination.

Division 2 – Effect of 2 CMPs determining person not eligible to access voluntary assisted dying

51. Voluntary assisted dying process ends if 2 CMPs determine person not eligible

- (1) If 2 CMPs to whom a person has been referred under section 37 have made a determination under section 47(b) that the person is not eligible to access voluntary assisted dying, the voluntary assisted dying process ends in relation to the person.
- (2) Subsection (1) does not prevent a person from commencing the voluntary assisted dying process again by making a new first request.

52. Where process ends under section 51 former PMP may not accept first request for 12 months

- (1) If the voluntary assisted dying process ends in relation to a person under section 51, the medical practitioner who was the person’s PMP may not accept another first request from the person within 12 months after the second determination by a CMP is made under section 47(b).
- (2) Subsection (1) does not apply in relation to a medical practitioner if the Commission has

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issued to the medical practitioner an
authorisation under section 107(3)(a).

PART 10 – FINAL REQUESTS

53. Person may make final request to PMP

- (1) If a person's CMP has determined under section 47(a) that the person is eligible to access voluntary assisted dying, the person may make a final request to the person's PMP to determine whether the person is eligible to access voluntary assisted dying (a *final request*).
- (2) A person must not make a final request to the person's PMP within 48 hours of the person having made a second request to the PMP under section 30(1) unless, in the opinion of the PMP –
 - (a) the person is likely to die within 7 days; or
 - (b) the person is likely to cease to have decision-making capacity within 48 hours.
- (3) A final request by a person is an instrument in writing, in an approved form, completed, and signed, by –
 - (a) the person; or
 - (b) if the person is unable to complete or sign the instrument – an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf.
- (4) A person may not designate under subsection (3)(b) the person's PMP or CMP to

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complete or sign, or complete and sign, a final request on the person's behalf.

- (5) A person's PMP who receives a final request under subsection (1) from the person must, as soon as reasonably practicable, but in any case within 7 days, give to the Commission a copy of the final request.

54. PMP may refer person to another health practitioner, &c.

A person's PMP to whom a final request is made by the person under section 53(1) may, before determining the request, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to give to the PMP all information that the PMP may reasonably require in order to make the determination;
- (c) request a medical practitioner to give to the PMP a copy of the medical records of the person that are in the possession of the medical practitioner and that the PMP may reasonably require in order for the PMP to make the determination;
- (d) request a psychiatrist, psychologist, registered health practitioner or any other person whom the PMP thinks fit, to give to the PMP the information that the PMP

may reasonably require in order to make the determination.

55. Determination of final request

A person's PMP to whom a final request is made by the person under section 53(1) must determine the request –

- (a) by determining that the person is eligible to access voluntary assisted dying; or
- (b) by determining that the person is not eligible to access voluntary assisted dying.

56. Requirements in relation to determination of final request

(1) A determination under section 55 of a final request made by a person must not be made by the person's PMP unless –

- (a) the PMP, after receiving the final request, has met the person, in person or by way of audio-visual link; and
- (b) the PMP, having met the person, in person or by way of audio-visual link, is able to determine the decision-making capacity of the person or adopts under section 12(5) the decision of another person in relation to the decision-making capacity of the person.

(2) A person's PMP –

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- (a) must not determine under section 55(b) that the person is not eligible to access voluntary assisted dying, by reason only that the PMP does not have sufficient information to enable the PMP to determine that the person is eligible to access voluntary assisted dying; and
 - (b) may refuse to make a determination under section 55 in relation to the person until the PMP has sufficient information to enable the PMP to make the determination; and
 - (c) must not determine under section 55(a) that the person is eligible to access voluntary assisted dying until the PMP has sufficient information to enable the PMP to make the determination.
- (3) A person's PMP must determine under section 55 a final request by the person by determining under section 55(a) that the person is eligible to access voluntary assisted dying, if the PMP is satisfied that the person is eligible under section 10 to access voluntary assisted dying.

57. Determination of final request to be in writing and contain relevant information about eligibility

A determination under section 55 in relation to a person is to be in writing and is to contain the relevant information about eligibility in relation to the person.

58. Notification of determination

A person's PMP who has made a determination under section 55 in relation to the person must, as soon as reasonably practicable but in any case within 7 days –

- (a) notify the person as to whether the determination states that the person is, or is not, eligible to access voluntary assisted dying; and
- (b) place on the PMP's medical records in relation to the person a copy of the determination; and
- (c) give to the Commission a copy of the determination.

59. Change of PMP after final request made

- (1) If a person who was a person's PMP –
 - (a) has, after receiving a final request from the person, determined the request by determining that the person is eligible to access voluntary assisted dying; and
 - (b) has ceased to be the PMP in relation to the person –

a person who is the person's CMP and who has determined under section 55(a) that the person is eligible to access voluntary assisted dying may apply to the Commission to become the person's PMP for the purposes of section 16 and in respect of so much of the voluntary assisted

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dying process as has not occurred in relation to the person.

- (2) The Commission may, after receiving an application under subsection (1), determine that the person's CMP is to become the person's PMP for the purposes of section 16 and in respect of so much of the voluntary assisted dying process as has not occurred in relation to the person.
- (3) The Commission must not make a determination under subsection (2) that a person's CMP is to become the person's PMP unless the Commission is satisfied that –
 - (a) a person has ceased to be the person's PMP; and
 - (b) the person agrees to the CMP becoming the person's PMP.
- (4) If the Commission has determined under subsection (2) that a person's CMP is to become the person's PMP, the Commission must notify the CMP and the person of the determination.
- (5) If the Commission has determined under subsection (2) that a person's CMP is to become the person's PMP, the CMP becomes the person's primary medical practitioner (the person's *PMP*) for the purposes of section 16 and in respect of so much of the voluntary assisted dying process as has not occurred in relation to the person.

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**PART 11 – HEALTH PRACTITIONER WHO IS TO
SUPPLY VAD SUBSTANCE TO PERSON**

60. PMP to decide whether to be AHP

If a person's PMP has determined a final request by the person by determining under section 55(a) that the person is eligible to access voluntary assisted dying, the PMP (or, if another person has become the person's PMP after the person's final request has been determined under section 55(a), that person) must, as soon as reasonably practicable but in any case within 48 hours, advise the person as to whether –

- (a) the PMP is to be the person's AHP; or
- (b) the PMP does not intend to be the person's AHP and intends to request the Commission to appoint an AHP in relation to the person.

61. AHP in relation to person

- (1) Subject to subsection (2), if a person's PMP has determined a final request by the person by determining under section 55(a) that the person is eligible to access voluntary assisted dying, the person's PMP (whether or not that PMP was the PMP who made the determination) becomes the person's administering health practitioner (the person's **AHP**).
- (2) Subsection (1) does not apply in relation to a person's PMP if –

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- (a) the PMP has advised the person under section 60(b) that the PMP does not intend to be the person's AHP; or
 - (b) subsection (3) applies in relation to the person.
- (3) If a person is appointed under section 62(2) to be the administering health practitioner in relation to a person, the person so appointed is the person's AHP.

62. Appointment of AHP

- (1) If a person's PMP gives advice to the person under section 60(b) that the PMP does not intend to be the person's AHP, the PMP must, as soon as reasonably practicable but in any case within 2 days, in writing, request the Commission to appoint an AHP in relation to the person.
- (2) If the Commission receives a request under subsection (1) from a person's PMP, the Commission must, by an instrument in writing, signed by the Commission, appoint a medical practitioner, or a registered nurse, to be the person's administering health practitioner (the person's **AHP**).
- (3) A person may not be appointed under subsection (2) to become a person's AHP if the person is –
 - (a) a member of the family of the person's PMP or CMP; or

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- (b) employed by, contracted directly or indirectly by, or working under the supervision of, the person's PMP or CMP; or
- (c) the employer of, has a direct or indirect contract with, or is a supervisor of, the person's PMP or CMP.

63. Requirements for appointment of AHP

- (1) The Commission may, under section 62(2), only appoint a medical practitioner, or a registered nurse, to be a person's administering health practitioner if –
 - (a) the medical practitioner or registered nurse has agreed to be appointed as the person's administering health practitioner; and
 - (b) the medical practitioner or registered nurse has signed a statutory declaration stating that the medical practitioner or registered nurse, respectively –
 - (i) has, within the 5-year period before being so appointed, successfully completed an approved voluntary assisted dying training course; and
 - (ii) is not a member of the family of the person; and

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(iii) does not know or believe that he or she is likely to, either directly or indirectly benefit from, or receive a financial benefit, directly or indirectly, as a result of, the death of the person, other than by receiving reasonable fees for the provision of services as the PMP, CMP or AHP of the person; and

(iv) has the relevant experience.

(2) For the purposes of subsection (1)(b)(iv) –

(a) a medical practitioner has the relevant experience if the practitioner has at least 5 years' experience as a medical practitioner after having become a medical practitioner; and

(b) a registered nurse has the relevant experience if the nurse has at least 5 years' experience as a registered nurse after becoming a registered nurse.

64. Person entitled to refuse to be appointed AHP

A medical practitioner, or a registered nurse, is entitled to refuse under section 63(1)(a) to be appointed under section 62(2) as a person's administering health practitioner for any reason, including but not limited to because the practitioner or nurse has a conscientious objection to providing assistance to the person to

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die, and is not required to give to any person any reason for so refusing.

65. PMP to be notified of appointment of AHP

The Commission must notify a person's PMP as soon as practicable after appointing a person under section 62(2) as the person's administering health practitioner.

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s. 66 Part 12 – Authorisations and Prescriptions in Relation to VAD Substances

**PART 12 – AUTHORISATIONS AND PRESCRIPTIONS
IN RELATION TO VAD SUBSTANCES**

Division 1 – VAD substance authorisation

66. PMP may request Commission to issue VAD substance authorisation

- (1) If a person's PMP has determined a final request by the person by determining under section 55(a) that the person is eligible to access voluntary assisted dying, the person's PMP (whether or not the person's PMP was the person who made under section 55 the determination of the final request) must request the Commission, orally or in writing, to issue a VAD substance authorisation.
- (2) Subsection (1) does not apply in relation to a person's PMP if –
 - (a) the person has informed the PMP under section 16(1) that the person no longer wishes to access voluntary assisted dying; or
 - (b) the PMP has been notified under section 16(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying.

67. Commission may issue or refuse to issue VAD substance authorisation

- (1) If the Commission receives a request under section 66(1) from a person's PMP, the

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Commission must, as soon as reasonably practicable –

- (a) issue to the PMP a VAD substance authorisation in relation to the person; or
 - (b) if section 68(1) applies, refuse to issue to the PMP a VAD substance authorisation in relation to the person.
- (2) A VAD substance authorisation in relation to a person is an instrument in writing, in the approved form, that is signed by the Commission and that –
- (a) contains the relevant details in relation to a VAD substance authorisation in respect of the person; and
 - (b) specifies that the person’s PMP is authorised to issue a VAD substance prescription in relation to the person.
- (3) For the purposes of subsection (2)(a), the relevant details in relation to a VAD substance authorisation in respect of a person are –
- (a) the name of the person and the address at which the person is ordinarily resident; and
 - (b) the name of the person’s PMP at the time when the VAD substance authorisation is issued; and

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- (c) the details of the VAD substance to which the VAD substance prescription is to relate; and
 - (d) the maximum amount of the VAD substance, the supply and possession of which is to be authorised by the VAD substance prescription; and
 - (e) the period for which the person’s PMP is authorised to issue the VAD substance prescription.
- (4) A VAD substance authorisation may relate to either of the following:
- (a) a VAD substance that may be self-administered by the person to whom the VAD substance relates;
 - (b) a VAD substance that may be administered to the person by the AHP in relation to the person.

68. Refusal to issue VAD substance authorisation

- (1) The Commission must refuse to issue to a person’s PMP a VAD substance authorisation in relation to the person if –
- (a) the Commission has not received all notices, and information, in relation to the person that the PMP is required under this Act to give to the Commission; or

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- (b) the Commission suspects that the requirements of this Act have not been met in relation to the person.
- (2) If the Commission refuses under subsection (1) to issue to a PMP a VAD substance authorisation, the Commission must, within 2 business days, notify the PMP of the refusal and the reasons for the refusal.

69. Amendment or revocation of VAD substance authorisation

- (1) The Commission may, by notice to a person’s PMP, amend or revoke a VAD substance authorisation that has been issued to the PMP.
- (2) An amendment or revocation under subsection (1) of a VAD substance authorisation that has been issued to a person’s PMP may be made on the Commission’s own motion or at the request of the person’s PMP.

Division 2 – VAD substance prescriptions

70. PMP may issue VAD substance prescription

- (1) A PMP to whom a VAD substance authorisation in relation to a person is issued under section 67(1)(a) –
 - (a) may issue a VAD substance prescription in relation to the person, containing the relevant prescription details in respect of the person, if the PMP is authorised to do so under subsection (2)(a); and

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(b) may request and receive from a pharmacist, in accordance with the VAD substance prescription, the amount of the VAD substance specified in the VAD substance prescription, if the PMP is authorised to do so under subsection (2)(b).

(2) A PMP to whom a VAD substance authorisation in relation to a person is issued under section 67(1)(a) –

(a) is authorised to issue a VAD substance prescription, containing the relevant prescription details in respect of the person, unless, before the prescription is issued –

(i) the VAD substance authorisation has been revoked under section 69; or

(ii) the person has informed the PMP under section 16(1) that the person no longer wishes to access voluntary assisted dying; or

(iii) the PMP has been notified under section 16(5)(b) by the AHP in relation to the person that the person no longer wishes to access voluntary assisted dying; and

(b) is authorised to request and receive from a pharmacist, as the agent of the person to whom the relevant prescription details relate, the amount of the VAD substance

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specified in the VAD substance prescription, unless, before the substance is requested or received –

- (i) the VAD substance authorisation has been revoked under section 69; or
 - (ii) the person has, under section 16(1), informed the PMP in relation to the person that the person no longer wishes to access voluntary assisted dying; or
 - (iii) the PMP has been notified under section 16(5)(b) by the AHP in relation to the person that the person no longer wishes to access voluntary assisted dying.
- (3) For the purposes of this section, the relevant prescription details in respect of a person are –
- (a) the name of the person and the address at which the person is ordinarily resident; and
 - (b) the name of the PMP who has issued the VAD substance prescription; and
 - (c) the details of the VAD substance to which the VAD substance prescription relates, being the VAD substance specified in the VAD substance authorisation; and

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- (d) the maximum amount of the VAD substance, the supply and possession of which is authorised by the VAD substance prescription.

71. What pharmacist may do on receiving VAD substance prescription

- (1) A pharmacist who –
 - (a) receives from a PMP a VAD substance prescription in relation to a VAD substance; and
 - (b) is given by the PMP a copy of a VAD substance authorisation issued to the PMP under section 67(1)(a) –

may, after complying with subsection (2), supply to the PMP the VAD substance specified in the VAD substance prescription or may refuse to supply the VAD substance.

- (2) Unless the pharmacist does not intend to supply a VAD substance to a person, a pharmacist who receives from a person's PMP a VAD substance prescription in relation to the person is to discuss with the person (in person or by way of audio-visual link) the medical condition of the person so as to ensure that the VAD substance to which the VAD substance prescription relates is suitable for use in relation to the person for the purposes for which it has been prescribed.
- (3) A pharmacist may refuse to supply a VAD substance to a PMP for any reason, including but

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not limited to because the pharmacist has a conscientious objection to providing assistance to a person to die.

- (4) A pharmacist who supplies to a PMP a VAD substance under subsection (1) must –
- (a) as soon as reasonably practicable but in any case within 3 business days, make a record of the supply of the substance; and
 - (b) within 3 business days, notify the Commission of the supply of the VAD substance.

Penalty: Fine not exceeding 50 penalty units.

- (5) A pharmacist who supplies to a PMP a VAD substance under subsection (1) in relation to a person must ensure that the packaging, or container, in which the substance is contained clearly states, in English –
- (a) the name of the PMP; and
 - (b) the name of the person; and
 - (c) a description of the VAD substance; and
 - (d) that the substance is poisonous and that consumption of it may be fatal.

Penalty: Fine not exceeding 50 penalty units.

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72. PMP to destroy VAD substance prescription in certain circumstances

A person who is or was a person's PMP must destroy any VAD substance prescription that has been issued by the PMP and that has not been given by the PMP to a pharmacist, and notify the Commission of the destruction of the prescription, as soon as reasonably practicable, but in any case within 7 days, after the person who is or was a person's PMP –

- (a) has ceased to be the person's PMP; or
- (b) is informed under section 16(1) by a person that the person no longer wishes to access voluntary assisted dying or is notified under section 16(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
- (c) becomes aware that a different VAD substance to the VAD substance specified in the VAD substance prescription is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance specified in the prescription.

***Division 3 – Duties of PMP and AHP after being supplied
VAD substance***

73. Duties of PMP when VAD substance supplied to PMP

- (1) If a VAD substance is supplied to a PMP under section 71, the PMP must ensure that –
 - (a) the substance is contained in a locked receptacle that is not readily accessible by any other person; and
 - (b) the substance is kept at the PMP’s usual place of employment as a medical practitioner.
- (2) Subsection (1) does not apply, in relation to a person’s PMP, in respect of a VAD substance, if –
 - (a) the substance is in the immediate physical possession of the PMP and is being transported to another place –
 - (i) for administration to the person; or
 - (ii) for provision of the substance to the person for the person to self-administer; or
 - (iii) for provision of the substance to the AHP in relation to the person; or

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- (b) the substance is in the immediate physical possession of the PMP and is not readily accessible by any other person; or
- (c) the substance is being administered to the person by the PMP as the person's AHP; or
- (d) the substance has been given to the person to self-administer or has been given to the person's AHP in relation to the person; or
- (e) the PMP has, under section 77(3), returned the substance to the pharmacist who supplied it to the PMP.

74. Supply of VAD substance to AHP by PMP

- (1) A person's PMP may supply to the person's AHP a VAD substance supplied to the PMP under section 71, if the PMP is authorised to do so under subsection (2).
- (2) A person's PMP is authorised to supply a VAD substance to the person's AHP if –
 - (a) the AHP has received under section 82(1) a final permission from the person; and
 - (b) subsection (3) does not apply in relation to the PMP.
- (3) A person's PMP is not authorised to supply a VAD substance to the person's AHP if –

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- (a) the VAD substance authorisation in relation to the person has been revoked under section 69; or
 - (b) the person has informed the PMP under section 16(1) that the person no longer wishes to access voluntary assisted dying; or
 - (c) the PMP has been notified under section 16(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
 - (d) the PMP becomes aware that a different VAD substance is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance.

75. Duties of AHP when VAD substance supplied to AHP by PMP

- (1) If a VAD substance is supplied to an AHP under section 74(1), the AHP must ensure that –
 - (a) the substance is contained in a locked receptacle that is not readily accessible by any other person; and
 - (b) the substance is kept at the AHP's usual place of employment as a registered health practitioner.

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- (2) Subsection (1) does not apply in relation to a person's AHP, in respect of a VAD substance, if –
- (a) the substance is in the immediate physical possession of the AHP and is being transported to another place –
 - (i) for administration to the person; or
 - (ii) for provision of the substance to the person for the person to self-administer; or
 - (b) the substance is in the immediate physical possession of the AHP and is not readily accessible by any other person; or
 - (c) the substance is being administered to the person by the AHP; or
 - (d) the substance has been given to the person to self-administer; or
 - (e) the AHP has, under section 76(3), returned the substance to the pharmacist who supplied it to the PMP.

76. Duties of AHP in relation to VAD substance when VAD substance no longer required

- (1) In this section –

current or former AHP means a person who is or was a person's AHP.

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- (2) In this section, the relevant circumstances apply, in relation to a VAD substance, to a current or former AHP of a person, if the current or former AHP –
- (a) is informed under section 16(1) by the person, or is notified under section 16(4)(b) by the person’s PMP, that the person no longer wishes to access voluntary assisted dying; or
 - (b) decides under section 78 that the person does not have decision-making capacity or is not acting voluntarily; or
 - (c) is, after the death of the person, in possession of a VAD substance supplied to the person; or
 - (d) is in possession of a VAD substance –
 - (i) that was supplied to the person because, at the time of supply, the person was intending to self-administer the substance, but has been returned to the AHP because the person has subsequently ceased to intend to self-administer the substance; or
 - (ii) that was supplied to the AHP for administration to the person but is no longer to be administered to the person by the AHP because the person has subsequently obtained a private self-administration certificate and the

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VAD substance is not suitable for
self-administration; or

- (e) is supplied with a VAD substance under section 92(3) or (4).
- (3) As soon as reasonably practicable, but in any case within 7 days, after the relevant circumstances begin to apply, in relation to a VAD substance, to a current or former AHP of a person, the current or former AHP must –
 - (a) ensure that any amount of the VAD substance that is in the possession of the current or former AHP is returned to the pharmacist who supplied the substance to the person's PMP; and
 - (b) notify the Commission that the remaining VAD substance has been returned to the pharmacist who supplied the substance to the person's PMP.
- (4) A pharmacist to whom a VAD substance, supplied by the pharmacist, is returned under subsection (3) must destroy the substance as soon as practicable and record that the substance has been destroyed.

77. Duties of PMP in relation to VAD substance when VAD substance no longer required

- (1) In this section –

current or former PMP means a person who
is or was a person's PMP.

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- (2) In this section, the relevant circumstances apply, in relation to a VAD substance, to a person's current or former PMP if the person's current or former PMP –
- (a) has ceased to be the person's PMP; or
 - (b) is informed under section 16(1) by the person that the person no longer wishes to access voluntary assisted dying, or is notified under section 16(5)(b) by the person's AHP that the person no longer wishes to access voluntary assisted dying; or
 - (c) is in possession of a VAD substance and becomes aware that a different VAD substance is required because there is a private self-administration certificate in relation to the person or because the person no longer intends to self-administer the VAD substance that is in the possession of the PMP.
- (3) As soon as reasonably practicable, but in any case within 7 days, after the relevant circumstances begin to apply, in relation to a VAD substance, to a person's current or former PMP, the person's current or former PMP must –
- (a) ensure that so much of the VAD substance as is in the possession of the current or former PMP is returned to the pharmacist who supplied the substance to the PMP; and

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- (b) notify the Commission of the return of the VAD substance to the pharmacist who supplied the substance to the PMP.

- (4) A pharmacist to whom a VAD substance, supplied by the pharmacist, is returned under subsection (3) must destroy the substance as soon as practicable and record that the substance has been destroyed.

**PART 13 – FINAL ADMINISTRATIVE
REQUIREMENTS**

*Division 1 – Decision-making capacity and voluntariness to
be determined*

**78. Final determination by AHP of decision-making
capacity and voluntariness**

A person's AHP must, within 48 hours before the AHP receives a final permission from the person, determine whether the person has decision-making capacity and is acting voluntarily.

79. AHP may refer person to another person, &c.

A person's AHP may, for the purpose of enabling the AHP to determine for the purposes of section 78 the decision-making capacity of the person or whether the person is acting voluntarily, do any one or more of the following:

- (a) refer the person to another medical practitioner for examination;
- (b) request the person to provide to the AHP all information that the AHP reasonably requires in order to make the determination;
- (c) request a medical practitioner to provide to the AHP copies of the medical records of the person that are in the possession of the medical practitioner and that the AHP

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reasonably requires in order for the AHP to make the determination;

- (d) request a psychiatrist, psychologist, registered health practitioner, or any other person who the AHP thinks fit, to provide to the AHP the information that the AHP reasonably requires in order to make the determination.

80. Notice where AHP determines person does not have decision-making capacity or is not acting voluntarily

If a person's AHP determines under section 78 that the person does not have decision-making capacity or is not acting voluntarily, the AHP must, as soon as reasonably practicable, but in any case within 24 hours –

- (a) notify the person, a guardian of the person or another person who cares for or who has responsibility for the person, of the determination; and
- (b) notify the Commission of the determination; and
- (c) if the AHP is not the person's PMP, notify the person's PMP of the determination.

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81. Advice to be given to person where AHP determines person has decision-making capacity and is acting voluntarily

If a person's AHP determines under section 78 that the person has decision-making capacity and is acting voluntarily, the AHP must, as soon as reasonably practicable but in any case within 24 hours, advise the person –

- (a) that the person is entitled to receive assistance to die; and
- (b) of the manner in which the VAD substance that is to be administered, or self-administered, to the person is to be so administered and the consequence of administration of the substance to the person; and
- (c) that if the person wishes to receive assistance to die the person must give to the AHP a final permission under section 82(1); and
- (d) that the person is not required to give to the AHP a final permission under section 82(1) and may at any time before that final permission is given, advise the AHP that the person does not wish to receive assistance to die; and
- (e) that, once the final permission is given, the person will immediately be supplied with a VAD substance, or a VAD substance will immediately be

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administered to the person by the AHP,
in accordance with the final permission.

Division 2 – Final permission to be given

82. Person may give final permission

- (1) A person who has received advice under section 81 that the person is entitled to receive assistance to die, may give to the person's AHP an instrument in writing in the approved form (a ***final permission***) that is –
 - (a) completed, and signed, by the person; or
 - (b) if the person is unable to complete or sign the instrument – completed and signed by an adult who is designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf.
- (2) A person may not designate under subsection (1)(b) the PMP, the CMP, or the AHP, in relation to the person to complete or sign, or complete and sign, a final permission on the person's behalf.
- (3) A final permission by a person is to include –
 - (a) a statement that the person has received the advice referred to in section 81; and
 - (b) a statement that the person wishes to access voluntary assisted dying and understands that as soon as practicable after that permission is given –

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- (i) the person will be, in accordance with the wishes of the person set out in the final permission, supplied with the VAD substance to self-administer; or
 - (ii) the person's AHP will administer to the person the VAD substance, in accordance with the wishes of the person set out in the final permission; and
- (c) a statement as to whether the person wishes –
 - (i) to self-administer a VAD substance; or
 - (ii) to be assisted by the AHP to self-administer a VAD substance; or
 - (iii) to have the person's AHP administer a VAD substance to the person; and
- (d) a statement as to whether, if unexpected complications of a medical kind arise from the administration of a VAD substance to the person and the person does not intend to self-administer a VAD substance under section 91, the person wishes the person's AHP to –
 - (i) administer to the person a substance (which may be a VAD substance) that will enable the person to die more quickly and

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painlessly than would otherwise
be the case; or

- (ii) take action that it is reasonable for the person's AHP to take to preserve the person's life.

Division 3 – Private self-administration certificates

83. Private self-administration request

- (1) A person may give to the person's AHP a private self-administration request if the person's PMP has determined a final request by the person by determining that the person is eligible to access voluntary assisted dying.
- (2) A private self-administration request is an instrument in writing, in the approved form, that –
 - (a) contains a request for permission to self-administer a VAD substance in accordance with section 91 and to do so without the person's AHP being required to comply with sections 87 and 88; and
 - (b) is –
 - (i) completed, and signed, by the person; or
 - (ii) if the person is unable to complete or sign the instrument – completed and signed by an adult who is designated by the person to complete or sign, or to

complete and sign, the instrument on the person's behalf.

- (3) A person may not designate under subsection (2)(b)(ii) the person's PMP, CMP or AHP to complete or sign, or complete and sign, a private self-administration request on the person's behalf.

84. Private self-administration certificate

- (1) If –
- (a) a person gives to the person's AHP a private self-administration request; and
 - (b) the person's AHP is satisfied that the person will be able to self-administer a VAD substance –

the person's AHP must complete and sign a private self-administration certificate.

- (2) A person's AHP must not complete and sign a private self-administration certificate unless subsection (1) applies.
- (3) For the purposes of this Act, a private self-administration certificate is an instrument, in the approved form, certifying that the person is entitled to self-administer a VAD substance in accordance with section 91 and without the person's AHP being required to comply with sections 87 and 88.
- (4) A person's AHP must, as soon as reasonably practicable, but in any case within 48 hours, after

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completing and signing under subsection (1) a private self-administration certificate in relation to the person, provide a copy of the certificate to –

- (a) the person; and
- (b) if the person's AHP is not the person's PMP, the person's PMP; and
- (c) the Commission.

85. Appointment of contact person

- (1) If there is a private self-administration certificate in relation to a person, the person must appoint a person who is an adult to be the contact person in relation to the person.
- (2) An appointment of a person to be the contact person in relation to a person under subsection (1) is to –
 - (a) be made by an instrument in the approved form; and
 - (b) be signed by the person to whom the self-administration certificate relates, or, if the person is unable to complete or sign the instrument, by an adult designated by the person to complete or sign, or to complete and sign, the instrument on the person's behalf; and
 - (c) be signed by the person being appointed to be the contact person.

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- (3) A person may not be appointed to be the contact person in relation to a person under subsection (1) unless the person so appointed accepts the appointment.
- (4) As soon as reasonably practicable, but in any case within 7 days, after a person is appointed to be the contact person in relation to a person, the contact person must notify –
 - (a) the person’s AHP; and
 - (b) the Commission.

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***Division 1 – Supply and administration of VAD substance
where no private self-administration certificate***

86. AHP may supply, &c., VAD substance to person

- (1) A person's AHP may, if authorised to do so under subsection (2) –
 - (a) supply to the person a VAD substance for self-administration while the AHP is in close proximity to the person in accordance with sections 87 and 88; or
 - (b) supply to the person, and assist the person to self-administer, a VAD substance; or
 - (c) administer a VAD substance to the person.
- (2) A person's AHP is authorised to carry out an action for the purposes of subsection (1) if –
 - (a) the AHP has issued to the person under subsection (5) an AHP administration certificate in relation to the person; and
 - (b) the AHP has been supplied, as the person's PMP, the VAD substance under section 71(1) or was supplied the substance under section 74 by the person's PMP; and
 - (c) to do so is in accordance with the statement of the person included in the

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- person's final permission in accordance with section 82(3)(c) or (d); and
- (d) subsection (3) does not apply in relation to the AHP.
- (3) A person's AHP is not authorised to carry out an action for the purposes of subsection (1) if –
- (a) the person has informed the AHP under section 16(1) that the person no longer wishes to access voluntary assisted dying; or
- (b) the AHP has been notified under section 16(4)(b) by the person's PMP that the person no longer wishes to access voluntary assisted dying.
- (4) A person may apply to the person's AHP for the issue of an AHP administration certificate in relation to the person.
- (5) A person's AHP may issue an AHP administration certificate in relation to the person if the AHP is satisfied that it is inappropriate for the person to self-administer a VAD substance, having regard to any of the following:
- (a) the ability of the patient to self-administer the VAD substance or to digest the VAD substance;
- (b) the patient's concern about self-administering the VAD substance;

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- (c) the method of administering the VAD substance that is suitable for the patient.

87. Duties of AHP if VAD substance not to be privately self-administered

- (1) A person's AHP must, while a VAD substance is being administered to, or self-administered by, the person in accordance with section 86, be in –
 - (a) the same room or place as the person; or
 - (b) a room or place in which any noise made by the person may be heard during and after the person has been administered the VAD substance.
- (2) A person's AHP must, after a VAD substance is administered to, or self-administered by, the person in accordance with section 86, remain in –
 - (a) the same room or place as the person; or
 - (b) a room or place in which any noise made by the person may be heard during and after the person has been administered the VAD substance –

until the person has died or is removed from the room or the place to receive medical treatment, as the case may be.

- (3) A person's AHP is to consider the wishes of the person in determining which room or place to be in, or remain in, in accordance with this section.

88. Duties where unexpected complications arise and person not privately self-administering

If unexpected complications of a medical kind arise after a VAD substance has, in accordance with section 86, been administered to, or self-administered by, the person, the person's AHP must, in accordance with the wishes of the person set out in the person's final permission –

- (a) administer to the person a substance (which may be a VAD substance) that will enable the person to die more quickly and painlessly than would otherwise be the case; or
- (b) take action that it is reasonable for the AHP to take to preserve the person's life.

Division 2 – Self-administration in private

89. AHP may supply VAD substance to person

- (1) If there is a private self-administration certificate in relation to a person, the person's AHP may, if the AHP is authorised to do so under subsection (2), supply to the person the VAD substance.
- (2) A person's AHP is authorised to supply to a person a VAD substance, if –
 - (a) the AHP has, as the person's PMP, been supplied the substance under section 71(1) or was supplied the

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- substance under section 74 by the person's PMP; and
- (b) to do so is in accordance with the statement of the person included in the person's final permission in accordance with section 82(3)(c) or (d); and
 - (c) subsection (3) does not apply in relation to the AHP.
- (3) A person's AHP is not authorised to supply a VAD substance to the person if –
- (a) the person has informed the AHP under section 16(1) that the person no longer wishes to access voluntary assisted dying; or
 - (b) the AHP has been notified under section 16(4)(b) by the person's PMP that the person no longer wishes to access voluntary assisted dying.
- (4) The VAD substance to be supplied, under this section, to the person is to be a VAD substance that is supplied to the person's AHP for self-administration by the person.

90. AHP to show self-administering person how to administer VAD substance

A person's AHP who has provided to the person a copy of a private self-administration certificate is to show the person how to self-administer the

VAD substance that is to be supplied to the person for self-administration.

91. Private self-administration of VAD substance

- (1) If there is a private self-administration certificate in relation to a person –
 - (a) the person is authorised to possess and store a VAD substance that has been supplied to the person under section 89; and
 - (b) the person is authorised to transport the substance –
 - (i) to the person’s residence; or
 - (ii) to a place where the person is to self-administer the substance; or
 - (iii) to the person’s AHP; and
 - (c) the person is authorised to supply the substance to the person’s AHP or to supply the substance to the person’s contact person for return to the person’s AHP.
- (2) If there is a private self-administration certificate in relation to a person and the person has been supplied under section 89 with a VAD substance by the person’s AHP, the person must ensure that the VAD substance is kept in its original packaging and in a locked receptacle, that is not readily accessible by any other person, until the person self-administers the substance, returns the

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substance to the AHP or supplies the substance to the person's contact person for return to the AHP.

- (3) If there is a private self-administration certificate in relation to a person and not more than 6 months (or, if the person has a neurodegenerative disease, not more than 12 months) has expired since the certificate was issued, the person may self-administer a VAD substance supplied to the person by the person's AHP, without sections 87 and 88 applying in relation to the self-administration.
- (4) If there is a private self-administration certificate in relation to a person but the person chooses to not self-administer the VAD substance supplied to the person, the person must return the substance to the person's AHP or give the substance to the person's contact person to return the substance to the person's AHP.

92. Duties of contact person where VAD substance to be, or is, privately self-administered

- (1) If –
 - (a) there is a private self-administration certificate in relation to a person; and
 - (b) the person has died after self-administering a VAD substance in accordance with section 91(3) –

the contact person in relation to the person is authorised for 14 days to possess and store the

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unused or remaining VAD substance that has been supplied to the person under section 89, if the substance is kept in a locked receptacle that is not readily accessible by any other person.

- (2) As soon as reasonably practicable, but in any case within 24 hours, after becoming aware of the death of a person who has self-administered to the person a VAD substance in accordance with section 91(3), the contact person in relation to the person must notify the person's AHP of the death of the person and, if the person has not died at the person's usual place of residence, must, as soon as practicable, notify the police as to the location of the person's body.
- (3) If –
- (a) there is a private self-administration certificate in relation to a person; and
 - (b) the person has died after self-administering a VAD substance in accordance with section 91(3) –

the contact person in relation to the person, as soon as reasonably practicable but in any case within 14 days after the person's death, must return to the person's AHP any unused or remaining VAD substance that has been supplied to the person under section 89.

- (4) If there is a private self-administration certificate in relation to a person, the contact person in relation to the person is, if requested by the person to do so, authorised to, and may –

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- (a) possess the substance for the purpose of transporting it to the person’s AHP; and
- (b) transport the substance to the person’s AHP; and
- (c) supply the substance to the AHP.

Division 3 – Duties of AHP after VAD substance administered or voluntary assisted dying process ends

93. Duty to notify Coroner

- (1) A person’s AHP must, if a VAD substance has been administered to the person under section 86 and the person has died or if the person’s AHP is notified under section 92(2) of the death of the person –
 - (a) notify the Coroner, under the *Coroners Act 1995*, of the death of the person; and
 - (b) notify the Commission of the death of the person.
- (2) Despite any other provision of the *Coroners Act 1995*, if a notice is given to the Coroner under subsection (1) in relation to a person, the Coroner –
 - (a) is not required unless directed to do so by the Attorney-General or Chief Magistrate in accordance with section 24(1)(g) or (h) of that Act to conduct an investigation under that Act in relation to the death of the person; and

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- (b) if the Coroner has no cause to believe the death occurred otherwise than in accordance with this Act, is to record under that Act the cause of death as being a voluntary death in accordance with this Act and to record the relevant medical condition in relation to the person.

PART 15 – REVIEW OF DECISIONS

Division 1 – Preliminary

94. Interpretation of Part 15

In this Part –

application means an application under section 95;

eligible applicant means –

- (a) a person who is the subject of a decision referred to in section 95(1); and
- (b) an agent of a person who is the subject of a decision referred to in section 95(1); and
- (c) any other person who the Commission is satisfied has a special interest in the medical treatment and care of a person who is the subject of a decision referred to in section 95(1);

party to proceedings means a person who is a party to proceedings under section 97(1);

relevant decision, in relation to an application, means a decision, referred to in section 95(1), to which the application relates;

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review means a review under this Part of a relevant decision specified in an application.

Division 2 – Application for review

95. Application for review of decision

- (1) An eligible applicant may apply to the Commission for a review of a decision, by a person's PMP, CMP or AHP, that the person –
 - (a) meets, or does not meet, the residency requirements; or
 - (b) has, or does not have, decision-making capacity; or
 - (c) is, or is not, acting voluntarily.
- (2) An application under subsection (1) –
 - (a) is to specify the decision, referred to in that subsection, to which the application relates; and
 - (b) is to be made in the approved form.
- (3) The Commission must give notice of an application in relation to a relevant decision to –
 - (a) the person who is the subject of the decision; and
 - (b) the person who made the decision; and
 - (c) the PMP in relation to the person who is the subject of the decision.

96. No further action to be taken until application determined

If an application is made in relation to a relevant decision, no further action that forms part of the voluntary assisted dying process may be taken by, or in relation to, the person who is the subject of the decision, until the application is determined under section 103 or is withdrawn or dismissed.

97. Parties to review and representation

- (1) The parties to proceedings under this Part in relation to an application are –
 - (a) the person who made the application; and
 - (b) the person who is the subject of the relevant decision; and
 - (c) the person who made the relevant decision; and
 - (d) the PMP in relation to the person who is the subject of the relevant decision.
- (2) A party to proceedings is entitled to be represented in those proceedings by an Australian legal practitioner or any other person.

98. Withdrawal and dismissal of application

- (1) A person who has made an application may, by notice to the Commission, withdraw the application.

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- (2) The Commission is to give notice to the following persons of the withdrawal of an application under subsection (1) in relation to a relevant decision:
 - (a) the person who is the subject of the relevant decision;
 - (b) the person who made the relevant decision;
 - (c) the PMP in relation to the person who is the subject of the relevant decision.
- (3) If the person who is the subject of a relevant decision to which an application relates dies, the application is taken to be withdrawn.
- (4) The Commission may at any time dismiss an application if, in the opinion of the Commission, the application is frivolous, vexatious, misconceived or lacking in substance or otherwise an abuse of process.

Division 3 – Conduct of review

99. Purpose of review, &c.

- (1) The purpose of a review of a decision specified in an application is –
 - (a) if the decision is a decision referred to in section 95(1)(a) – for the Commission to reach the correct and proper decision as to whether the person meets, or does not meet, the residency requirements; or

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- (b) if the decision is a decision referred to in section 95(1)(b) – for the Commission to reach the correct and proper decision as to whether the person has, or does not have, decision-making capacity; or
 - (c) if the decision is a decision referred to in section 95(1)(c) – for the Commission to reach the correct and proper decision as to whether the person is, or is not, acting voluntarily.
- (2) For the purposes of a review of a decision to which an application relates, the Commission is to conduct a hearing, or to obtain evidence, or both, so as to be able to make a fresh decision, on the evidence before the Commission, in substitution for the relevant decision.

100. Procedure

- (1) The Commission may do all things necessary or convenient to be done for the purposes of carrying out a review.
- (2) The Commission is to determine the procedures to be followed in proceedings in relation to an application.
- (3) The Commission –
 - (a) is to conduct proceedings with as little formality, and as quickly, as a proper consideration of the matter before the Commission permits; and

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- (b) is not bound by the rules of evidence but may inform itself on any matter in the way that the Commission thinks fit; and
 - (c) must observe the rules of procedural fairness.
- (4) The Commission may, but is not required to, conduct a hearing in relation to an application.
 - (5) Hearings in relation to an application must be held in private.
 - (6) The Commission may give directions as to the persons who may be present at a hearing in relation to an application.

101. Evidence

- (1) If the Commission considers that there are documents that –
 - (a) are in the possession of a party to proceedings; and
 - (b) may be relevant to the proceedings –the Commission may, by notice to a party, require the party to lodge a copy of each document with the Commission within the time specified in the notice.
- (2) Subsection (1) applies despite the *Personal Information Protection Act 2004* and any rule of law relating to privilege or the public interest in relation to the production of documents.

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- (3) The Commission may issue a notice requiring a person to attend before the Commission to give evidence and produce documents, if any, that are referred to in the notice, if the Commission considers that it is necessary or desirable to do so for the purposes of assisting the Commission to make a determination in relation to an application.
- (4) The Commission must allow a party to proceedings a reasonable opportunity –
 - (a) to call or give evidence in any hearings that may be held; and
 - (b) to examine, cross-examine or re-examine witnesses in any hearings that may be held; and
 - (c) to make submissions to the Commission, which may be, at the discretion of the Commission, oral or in writing.
- (5) Despite subsection (4), the Commission may refuse to allow a party to proceedings to call evidence on a matter if the Commission considers that there is already sufficient evidence of that matter before the Commission.
- (6) Evidence in proceedings may be given orally or in writing and, if the Commission requires, must be given on oath or by affidavit.
- (7) The Commission may administer or cause to be administered an oath, or take or cause to be taken an affirmation, for the purpose of taking and receiving evidence during proceedings.

- (8) The Commission may call in the assistance of an expert to advise the Commission in respect of any matter arising in a proceeding.

102. Self-incrimination

- (1) A person is not excused from answering a question or producing a document in proceedings, or pursuant to a notice given to the person under this Part, on the ground that the answer or document might tend to incriminate the person.
- (2) If a person claims, before answering a question or producing a document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence in any criminal proceedings in relation to an offence alleged to have been committed by the person, other than in proceedings in respect of the falsity of the answer or the document.

103. Determination of application

- (1) The Commission may determine an application made under section 95(1) in relation to a relevant decision by determining that the person who is the subject of the decision –
- (a) meets, or does not meet, the residency requirements; or
 - (b) has or does not have decision-making capacity; or
 - (c) is, or is not, acting voluntarily.

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- (2) The Commission must notify of a determination under subsection (1) in relation to a relevant decision –
- (a) the person who is the subject of the decision; and
 - (b) the applicant for the review of the decision; and
 - (c) the person who made the decision; and
 - (d) the PMP in relation to the person who is the subject of the decision.
- (3) If the Commission determines under subsection (1) that a person –
- (a) does not meet the residency requirements; or
 - (b) does not have decision-making capacity; or
 - (c) is not acting voluntarily –
- the voluntary assisted dying process ends and no further action that forms part of the voluntary assisted dying process may be taken in relation to the person.
- (4) Nothing in subsection (3) is to be taken to prevent a person from commencing the voluntary assisted dying process again by making a new first request.
- (5) Despite subsection (4), a person may not, except with the written approval of the Commission and

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subject to the conditions included in the approval, commence the voluntary assisted dying process again by making a new first request if the Commission determined under subsection (1) that the person is not acting voluntarily.

- (6) If the Commission determines under subsection (1) an application, contrary to the decision of the person's PMP, CMP or AHP (the *relevant person*) to which the application relates, by determining that the person has decision-making capacity or is acting voluntarily –
 - (a) the relevant person may, but is not required to, adopt the Commission's decision as the decision made by the relevant person; and
 - (b) if the relevant person so adopts the Commission's decision, the relevant person's decision is to be taken to be the decision so made and, accordingly, despite any other provision of this Act, the voluntary assisted dying process does not end.

104. Reasons for decision

- (1) The Commission must give to each of the parties to proceedings in relation to an application written reasons for the determination of the application under section 103(1).
- (2) A written transcript of the part of the proceedings in which the Commission gives the

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Commission’s reasons for a determination of an application under section 103(1) is sufficient to constitute written reasons for the purposes of this section.

105. Supreme Court

- (1) The Commission may state in the form of a special case for decision by the Supreme Court any question of law that may arise in the hearing of, or determination of, an application.
- (2) A party to proceedings who is aggrieved by a determination of the Commission under section 103 may, within 14 days, appeal to the Supreme Court against the decision.
- (3) An appeal may be brought –
 - (a) on a question of law, as of right; or
 - (b) on a question of fact, only with the leave of the Supreme Court.
- (4) The Supreme Court may, on an appeal under this section –
 - (a) confirm the decision of the Commission; or
 - (b) set aside the decision of the Commission and substitute its own decision; or
 - (c) remit the matter back to the Commission for redetermination, with or without directions.

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- (5) The Supreme Court may make any other order it thinks just in the circumstances.

PART 16 – PMPS, CMPS AND AHPS GENERALLY

106. When PMP ceases to be PMP

- (1) A person (the *relevant person*) ceases to be a person's PMP if –
- (a) the relevant person dies; or
 - (b) the relevant person ceases to be able to carry out the functions of a PMP by reason of loss of mental or physical capacity; or
 - (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
 - (d) the person's CMP is, or becomes –
 - (i) a member of the family of the relevant person; or
 - (ii) employed by, contracted directly or indirectly by, or works under the supervision of, the relevant person; or
 - (iii) a person who is the employer of, has a direct or indirect contract with, or is a supervisor of, the relevant person; or
 - (e) the relevant person notifies the Commission under subsection (2); or

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- (f) the voluntary assisted dying process ends in relation to the person under section 51 and the relevant person has complied with section 50(2); or
- (g) the voluntary assisted dying process ceases in relation to the person under section 103(3); or
- (h) the person dies and the relevant person has carried out all actions, if any, that the person's PMP is required to carry out under this Act after the death of the person; or
- (i) the person informs the relevant person under section 16(1) that the person no longer wishes to access voluntary assisted dying, and the relevant person has given all notices as required under this Act to be given by the person's PMP after receiving such a notice; or
- (j) the relevant person –
 - (i) has been notified under section 16(5)(b) that the person no longer wishes to access voluntary assisted dying; and
 - (ii) the relevant person has given all notices that a PMP is required under this Act to give after receiving such a notice; and
 - (iii) the relevant person has, under this Act, destroyed under this Act

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all VAD substances in relation to the person that are in the possession of the relevant person.

(2) A person's PMP may, in writing, notify –

- (a) the person; and
- (b) the person's CMP, or AHP, if any; and
- (c) the Commission –

that the PMP is to cease to be the person's PMP.

(3) A person who is or was a person's PMP –

- (a) must, after ceasing to be an authorised medical practitioner in relation to the person, issue all the notices referred to in subsection (2) as soon as reasonably practicable, but in any case within 7 days; and
- (b) may issue notices under subsection (2) for any other reason.

107. Former PMP may apply to Commission to become PMP again

(1) In this section –

relevant day, in relation to a person's PMP, means the day on which section 51 begins to apply in relation to the person.

(2) A medical practitioner who ceases under section 106(1)(g) to be the person's PMP may

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apply to the Commission to be authorised to accept another first request from the person within 12 months after the relevant day.

- (3) The Commission may, after receiving under subsection (2) an application from a medical practitioner who was a person's PMP –
 - (a) authorise the medical practitioner to accept another first request from the person within 12 months after the relevant day; or
 - (b) refuse to authorise the medical practitioner to accept another first request from the person within 12 months after the relevant day.
- (4) The Commission, in determining under subsection (2) an application received from a medical practitioner who was a person's PMP, is to take into account –
 - (a) the ability of the person to make a first request to another medical practitioner; and
 - (b) whether the health or circumstances of the person have significantly altered since the relevant day; and
 - (c) the likelihood of the health or circumstances of the person deteriorating so rapidly within the 12-month period after the application is made that it is in the best interests of the person that the Commission authorise the medical

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practitioner to accept another first request from the person within 12 months after the relevant day.

108. When CMP ceases to be CMP

- (1) A person (the *relevant person*) ceases to be a person's CMP if –
 - (a) the relevant person dies; or
 - (b) the relevant person ceases to be able to carry out the functions of a CMP by reason of loss of mental or physical capacity; or
 - (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
 - (d) the person's PMP is, or becomes –
 - (i) a member of the family of the relevant person; or
 - (ii) employed by, contracted directly or indirectly by, or a person working under the supervision of, the relevant person; or
 - (iii) a person who is the employer of, has a direct or indirect contract with, or is a supervisor of, the relevant person; or
 - (e) the relevant person notifies the Commission under subsection (2); or

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-
- (f) the voluntary assisted dying process ends in relation to the person under section 51 and the relevant person has complied with section 50(1); or
 - (g) the voluntary assisted dying process ends in relation to the person under section 103(3); or
 - (h) the person in relation to whom the person is a CMP dies; or
 - (i) the relevant person is notified by the PMP under section 16(4)(c) or section 16(6)(b) that the person no longer wishes to access voluntary assisted dying.
- (2) A person's CMP may, at any time before the CMP makes a determination under section 47 in relation to the person, notify, in writing –
- (a) the person's PMP, if any; and
 - (b) the Commission –
- that the medical practitioner is to cease to be the person's CMP.
- (3) A person's PMP may, in writing, advise a medical practitioner who is the person's CMP that the medical practitioner has ceased to be the person's CMP in relation to the person.
- (4) A person's PMP must not advise a medical practitioner under subsection (3) that the medical practitioner has ceased to be the person's CMP

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unless the person's CMP has not made a determination under section 47 in relation to a person within the later of the following periods:

- (a) 14 days after the request was received;
- (b) 14 days after any information that the CMP requested the PMP under section 44 to give was given to the CMP –

unless, in the opinion of the PMP, the person is likely to die within 7 days or is likely to cease to have decision-making capacity within 48 hours.

- (5) A person's CMP –
 - (a) must, after ceasing to be an authorised medical practitioner in relation to the person, issue all the notices referred to in subsection (2) as soon as reasonably practicable, but in any case within 7 days; and
 - (b) may, for any other reason, issue all the notices required to be issued under subsection (2).
- (6) The person's PMP must, within 7 days of giving advice under subsection (3) to a medical practitioner who is the person's CMP, notify the Commission in writing that the medical practitioner has ceased to be the person's CMP.

109. When AHP ceases to be AHP

A person (the *relevant person*) ceases to be a person's AHP if –

- (a) the relevant person dies; or
- (b) the relevant person ceases to be able to carry out the functions of an AHP by reason of loss of mental or physical capacity; or
- (c) the relevant person ceases to be an authorised medical practitioner in relation to the person; or
- (d) the relevant person is, or becomes –
 - (i) a member of the family of the person's PMP or CMP; or
 - (ii) employed by, contracted directly or indirectly by, or works under the supervision of, the person's PMP or CMP; or
 - (iii) a person who is the employer of, has a direct or indirect contract with, or is a supervisor of, the person's PMP or CMP; or
- (e) the relevant person ceases to be a registered nurse or becomes aware that that he or she is likely to, either directly or indirectly, benefit from or receive a financial benefit, directly or indirectly, as a result of, the death of the person, other

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than by receiving reasonable fees for the provision of services as the AHP of the person; or

- (f) the person informs the relevant person under section 16(1) that the person no longer wishes to access voluntary assisted dying and the relevant person has given all notices as required under this Act to be given by the person's AHP after receiving such a notice; or
- (g) the voluntary assisted dying process ends in relation to the person under section 103(3); or
- (h) the person in relation to whom the person is the AHP dies; or
- (i) the relevant person is notified under section 16(4)(b) by the person's PMP that the person no longer wishes to access voluntary assisted dying.

**PART 17 – VOLUNTARY ASSISTED DYING
COMMISSION**

Division 1 – Appointments

110. Voluntary Assisted Dying Commission

- (1) The Voluntary Assisted Dying Commission (*the Commission*) is established by this subsection.
- (2) The Commission consists of –
 - (a) a person who is to be the chairperson of the Commission and the Executive Commissioner; and
 - (b) a person, who is to be the Deputy Executive Commissioner; and
 - (c) at least 3 other members as may be necessary for the proper functioning of the Commission.
- (3) The members of the Commission are to be appointed jointly by the Minister and the Attorney-General.
- (4) A member of the Commission is entitled to be paid –
 - (a) the remuneration fixed from time to time by the Governor; and
 - (b) the travelling and other allowances that are fixed from time to time by the Governor.

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- (5) A member of the Commission –
 - (a) may hold the office in conjunction with State Service employment; but
 - (b) is not appointed to the office of member subject to and in accordance with the *State Service Act 2000*.
- (6) The Deputy Executive Commissioner is to act as the Executive Commissioner during any period when the Executive Commissioner is absent from duty or from the State.

111. Meetings of Commission

- (1) Meetings of the Commission may be convened by the Executive Commissioner or by any 2 members of the Commission.
- (2) Three members of the Commission form a quorum at any duly convened meeting of the Commission.
- (3) A question arising at a meeting of the Commission is to be determined by a majority of votes of the members of the Commission present and voting at the meeting.
- (4) The Executive Commissioner is to preside at all meetings of the Commission.
- (5) If the Executive Commissioner is not present at a meeting of the Commission, a member of the Commission elected by the members present is to preside at that meeting.

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- (6) The procedure for the calling of, and for the conduct of business at, meetings of the Commission is to be determined by the Commission.

112. Officers of Commission

- (1) The Minister may appoint such officers as the Minister considers to be necessary to assist the Commission in the performance of its functions.
- (2) A person appointed under this section –
- (a) is appointed subject to and in accordance with the *State Service Act 2000*; and
 - (b) may hold the office in conjunction with State Service employment.

Division 2 – Functions and powers

113. Functions and powers of Commission

- (1) In addition to any other functions conferred on the Commission under this or any other Act, the functions of the Commission are –
- (a) to monitor the operation of this Act; and
 - (b) to establish and maintain a list of medical practitioners and registered nurses who have completed approved voluntary assisted dying training; and

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- (c) to establish and maintain a list of medical practitioners who are willing to be PMPs, CMPs or AHPs; and
 - (d) to establish and maintain a list of registered nurses who are willing to be AHPs; and
 - (e) to establish and maintain a list of pharmacists who are willing to dispense VAD substances; and
 - (f) to collect statistical information in relation to the operation of this Act; and
 - (g) to distribute information relating to –
 - (i) the functions of the Commission; and
 - (ii) the operation of this Act; and
 - (h) any other functions that may be prescribed.
- (2) The Commission may –
- (a) for the purpose of monitoring compliance with this Act, review the performance and exercise by persons of functions and powers under this Act in relation to a death that has occurred as a result of the administration of a VAD substance under, or purportedly under, this Act; and
 - (b) investigate, report and make recommendations to the Minister on any

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matter that the Commission thinks fit relating to the operation or administration of this Act; and

- (c) communicate to appropriate persons or authorities any concerns that the Commission has about compliance or non-compliance with this Act.
- (3) The Commission may, with the permission of a medical practitioner or registered nurse, provide to a person the name and contact details of the medical practitioner or registered nurse.
 - (4) The Commission has the power to do all things necessary or convenient to be done in connection with, or incidental to or related to, the performance or exercise of the Commission's functions or powers under this Act.
 - (5) Except as otherwise provided for under this Act, a member of the Commission and any officer appointed under section 112 are not subject to the control and direction of the Minister in the performance or exercise of a function or power of the Commission under this Act.
 - (6) A member of the Commission, and any officer appointed under section 112, must not perform or exercise a power or function under this Act in relation to a person if the member, or officer, respectively –
 - (a) is a member of the family of the person;
or

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- (b) has a financial or other interest that may be affected, directly or indirectly, by the performance or exercise of the function or power.

114. Delegation by Commission

The Commission may delegate any of its functions or powers under this Act, other than this power of delegation.

115. Commission to determine VAD substances

- (1) The Commission is to determine to be VAD substances one or more substances, each of which, when the substance is administered to, or self-administered by, a person in accordance with the instructions of an AHP, is expected to cause the death of the person.
- (2) A determination under subsection (1) is an instrument of an administrative character and is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

116. Commission to approve voluntary assisted dying training courses

- (1) The Commission may approve for the purposes of this Act a course of voluntary assisted dying training, which may be training provided by means of a computer.

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- (2) A course of voluntary assisted dying training approved under subsection (1) must consist of training in relation to –
- (a) the functions of, and requirements under this Act in relation to, CMPs, PMPs and AHPs; and
 - (b) assessing whether or not a person is eligible to access voluntary assisted dying; and
 - (c) identifying and assessing whether a person may be subject to abuse or coercion in making a decision under this Act.
- (3) The Commission may only approve a course of voluntary assisted dying training under subsection (1) if the Commission has consulted with –
- (a) a body which represents medical practitioners; and
 - (b) a body which represents registered nurses; and
 - (c) a person nominated by the Public Guardian within the meaning of the *Guardianship and Administration Act 1995*; and
 - (d) a person nominated by the Chief Civil Psychiatrist within the meaning of the *Mental Health Act 2013*; and

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(e) a psychiatrist or psychologist –

as to the suitability of the course of voluntary assisted dying training for the purposes of this Act.

117. Commission may request authorisation of nurse practitioners to possess and supply VAD substances

(1) In this section –

nurse practitioner has the same meaning as in section 3 of the *Poisons Act 1971*;

Secretary has the same meaning as in section 3 of the *Poisons Act 1971*.

(2) The Commission may request the Secretary to authorise, under section 25B of the *Poisons Act 1971* –

(a) a nurse practitioner who is a registered nurse and who is specified in the request;
or

(b) each member, of a class, of nurse practitioners who are registered nurses, that is specified in the request –

to possess and supply a VAD substance for the purposes of use under this Act, if the nurse practitioner or member of the class of nurse practitioners who are registered nurses is supplied with the VAD substance as the AHP in relation to a person.

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- (3) The Secretary must not, without reasonable excuse, refuse a request made under subsection (2).

Division 3 – Records and reports

118. General record requirements

- (1) The Commission is to keep records of any notices, requests, or other documents, provided to the Commission by PMPs, CMPs, AHPs and other persons under this Act.
- (2) The Minister may notify the Commission of –
- (a) any records, or other documents, that the Minister requires to be kept by the Commission for the purposes of this Act; and
 - (b) the form and content of such records or documents; and
 - (c) the manner in which such records or documents are to be kept by the Commission.
- (3) The Commission is to keep records and documents, for the purposes of this Act, in accordance with the requirements of the Minister under subsection (2).
- (4) Unless otherwise notified by the Minister, the Commission may keep any records or documents electronically.

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- (5) The Minister, by notice to the Commission, may require the Commission to give to the Minister the records or information, in the possession of the Commission, that the Minister specifies in the notice.
- (6) The Commission must, as soon as reasonably practicable after receiving a notice under subsection (5), give to the Minister the records or information, in the possession of the Commission, that the Minister specifies in the notice.

119. Annual report

- (1) The Commission must, on or before 31 October in each year, give to the Minister a report setting out details of the administration and operation of this Act during the financial year ending on 30 June of the year.
- (2) Subsection (1) does not apply in relation to the first financial year after the commencement of this section, if Part 5 of this Act has not commenced before the end of 30 June of that financial year.
- (3) The Minister must cause a copy of a report to be tabled in each House of Parliament within 5 sitting-days after the report is given to the Minister under subsection (1).

Division 4 – Regulatory functions

120. Person who suspects contravention of Act may notify Commission

- (1) A person who suspects that a contravention of this Act is occurring, or has occurred, may notify the Commission of the suspected contravention.
- (2) If the Commission is notified under subsection (1) of a suspected contravention of this Act, the Commission –
 - (a) must record the details of the notice; and
 - (b) may (but is not required to) investigate the matter to which the suspected contravention relates; and
 - (c) may refer the matter to which the suspected contravention relates to such persons as the Commission thinks fit.

121. Commission may require information from persons

- (1) The Commission may issue a notice requiring a person to attend before the Commission –
 - (a) to answer questions; or
 - (b) to produce any documents that are referred to in the notice –

if the Commission considers that it is necessary or desirable to do so for the purposes of

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investigating whether this Act is being complied with.

- (2) The Commission may, by notice to a person, require the person to give to the Commission, within a period specified in the notice, any document or information specified in the notice that is relevant to the performance or exercise of any of the functions or powers of the Commission under this Act.
- (3) A person to whom a notice is given under this section must, within the period specified in the notice, comply with a requirement of the notice.

Penalty: Fine not exceeding 100 penalty units.

- (4) A person is not excused from answering a question or producing a document in proceedings, or pursuant to a notice given to the person under this section, on the ground that the answer or document might tend to incriminate the person.
- (5) If a person claims, before answering a question or producing a document, that the answer or document might tend to incriminate the person, the answer or document is not admissible in evidence in any criminal proceedings in relation to an offence alleged to have been committed by the person, other than in proceedings in respect of the falsity of the answer or the document.

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122. Requirement in relation to Commission where suspected contravention of Act

If the Commission suspects that a provision of this Act has been contravened, the Commission –

- (a) may (but is not required to) investigate the matter to which the suspected contravention relates; and
- (b) may refer the matter to which the suspected contravention relates to such persons as the Commission thinks fit.

PART 18 – OFFENCES

123. Inducements and dishonest or undue influence

A person must not –

- (a) offer to another person an inducement for the other person to make a request under this Act, to give a final permission or to inform a PMP or AHP under section 16; or
- (b) exercise dishonest or undue influence on a person in order to induce the person to make a request under this Act, to give a final permission or to inform a PMP or AHP under section 16.

Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

124. False representation of being authorised to communicate on behalf of person

A person must not falsely or in bad faith purport to be a person –

- (a) whom another person wishes to make relevant communications on behalf of the other person under section 15; or
- (b) who is designated to sign on behalf of another person a second request, a final request, a private self-administration request or a final permission.

Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

125. Person’s communicator must communicate faithfully

A person whom another person (the *VAD person*) wishes to make relevant communications on behalf of the VAD person under section 15 must not knowingly make, to the VAD person’s PMP, CMP or AHP, a communication for the purposes of this Act on behalf, or purportedly on behalf, of the VAD person, that is false or misleading.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

126. Falsification of record, &c.

A person must not falsify a request, form, document, certificate, notice, record, VAD substance authorisation, or VAD substance prescription, that is made, or is to be made, under or for the purposes of this Act.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

127. False statements

A person must not knowingly make a false statement in a request, form, document, certificate, notice, record, VAD substance authorisation, or VAD substance prescription, that is made, or is to be made, under or for the purposes of this Act.

Penalty: Imprisonment for a term of 2 years or a fine not exceeding 200 penalty units, or both.

128. Dishonest inducement to use VAD substance

A person must not, by dishonest or undue influence, induce another person to self-administer a VAD substance.

Penalty: Imprisonment for a term of 5 years or a fine not exceeding 200 penalty units, or both.

129. Offence to fail to provide notice to Commission when required

A person who is required in accordance with this Act to give a notice to the Commission must give the notice to the Commission in accordance with this Act.

Penalty: Fine not exceeding 50 penalty units.

130. Offences by contact person

A contact person in relation to a person must, within 14 days after the person dies after self-administering a VAD substance, return to the person's AHP any unused or remaining VAD substance that has been supplied to the person under section 89.

Penalty: Fine not exceeding 100 penalty units.

131. Offences in relation to review

A person must not, without reasonable excuse, proof of which is on the person, fail to comply with a requirement imposed on the person by a notice under Part 15.

Penalty: Fine not exceeding 50 penalty units.

PART 19 – PROTECTION FROM LIABILITY

132. Protection for persons assisting access to voluntary assisted dying process

A person does not incur any criminal liability –

- (a) by, in good faith, assisting another person to make a request, give a final permission, make a private self-administration request or to otherwise participate in the voluntary assisted dying process; or
- (b) by being present when another person self-administers, or is administered, a VAD substance in accordance with, or purportedly in accordance with, this Act.

133. Technical error does not invalidate

A minor or technical error in a request, notice, form or document given or relied on by a person under this Act does not invalidate the request, notice, form or document or affect any part of the voluntary assisted dying process.

134. Protection for persons acting in good faith

- (1) A person who, in good faith, takes an action, or fails to take an action, which action or failure –
 - (a) assists another person whom the person believes on reasonable grounds to be seeking to access, or is accessing,

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voluntary assisted dying under this Act;
and

- (b) apart from this section, would constitute
an offence under a law or an Act –

does not commit an offence under the law or
Act.

- (2) A person who, in good faith and without
negligence, takes, or fails to take, an action
under this Act or purportedly under this Act,
believing on reasonable grounds that the action
or failure is in accordance with this Act, is not,
in respect of that action or failure –

- (a) liable for unprofessional conduct or
professional misconduct; or

- (b) liable in any civil proceeding; or

- (c) liable for contravention of any code of
conduct or professional standards –

and does not incur any criminal liability, under
this or any other Act or law, for the taking of the
action or the failure to take the action.

- (3) If this section applies in relation to a person in
relation to the taking of an action or a failure to
take an action, the taking of the action or the
failure is not to be regarded as –

- (a) a breach of professional ethics or
standards or any principles of conduct
applicable to the person's employment;
or

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(b) professional misconduct or unprofessional conduct –

and the person may not be sanctioned, censured, or otherwise penalised, by a person or body whose function is to regulate the professional conduct of a registered health practitioner or a registered nurse.

(4) A registered health practitioner, registered nurse, or an officer of the Ambulance Service, who –

(a) in good faith, does not administer life-saving or life-sustaining medical treatment to a person who has not requested it; and

(b) believes on reasonable grounds that the person is dying after being administered, or administering to himself or herself, a VAD substance in accordance with this Act –

is not, by reason of not administering that treatment –

(c) guilty of an offence under a law or an Act; or

(d) liable for unprofessional conduct or professional misconduct; or

(e) liable in any civil proceeding; or

(f) liable for contravention of any code of conduct.

135. Contravention of Act by practitioners

- (1) If a registered medical practitioner or registered nurse –
- (a) in bad faith, takes an action, or fails to take an action, under this Act or purportedly under this Act; or
 - (b) without reasonable care and skill, takes an action or fails to take an action, under this Act or purportedly under this Act –

the taking of the action, or failure to take the action, is capable of constituting professional misconduct, or unprofessional conduct, for the purposes of the Health Practitioner Regulation National Law (Tasmania).

- (2) Subsection (1) applies whether or not the contravention constitutes an offence under this Act.

136. Authority for medical practitioner to refer person or seek information without being punished

- (1) A person's PMP –
- (a) may, despite any other law, refer the person, or make a request in relation to the person, to another person under this Act; and
 - (b) is not liable to any punishment under a law by virtue of having made a referral or request referred to in paragraph (a); and

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- (c) may not be sanctioned, censured, or otherwise penalised, by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having made a referral or request referred to in paragraph (a).
- (2) A person to whom a referral, or request, referred to in subsection (1)(a), in relation to a person is made by the person's PMP –
- (a) may, despite any other law, examine the person to whom the referral relates, or give to the PMP a copy of the medical records, or the information, to which the request relates; and
 - (b) is not liable to any punishment under a law by virtue of having examined the person or having given to the PMP a copy of the medical records or the information; and
 - (c) may not be sanctioned, censured, or otherwise penalised, by a person, or body of persons, whose function is to regulate the professional conduct of such a person, by reason only of having examined the person or given to the PMP a copy of the medical records or the information.

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137. Electronic communications

Nothing in this Act is to be taken to authorise the use of a method of communication if, or to the extent that, the use is contrary to or inconsistent with a law of the Commonwealth.

PART 20 – MISCELLANEOUS

138. Deaths not suicide for purposes of law of State

For the purposes of the law of this State, a person who dies as the result of the administration to the person, in accordance with this Act, of a VAD substance or a substance under section 88, or the self-administration by the person, in accordance with this Act, of a VAD substance, does not die by suicide.

139. Conflict of Acts

If there is an inconsistency between a provision of this Act and a provision of the *Poisons Act 1971* or the *Misuse of Drugs Act 2001*, the provision of this Act prevails to the extent of the inconsistency.

140. Giving of notices

A notice under this Act that is required to be given to another person in writing may be –

- (a) in writing on a paper document given to the other person; or
- (b) with the approval of the other person, in writing in an electronic document sent to the other person electronically.

141. Jurisdiction of Supreme Court

Nothing in this Act affects the inherent jurisdiction of the Supreme Court.

142. Report on initial operation of Act

- (1) The Commission is, within 10 months after the day on which this section commences, to provide to the Minister a report on the operation of this Act in the first 6-month period after that day.
- (2) A report under subsection (1) is to include the prescribed information and any other information that the Commission thinks fit.

143. Review of Act

- (1) The Governor is to appoint a panel of persons, nominated by the Minister, to conduct a review of the operation and scope of this Act.
- (2) The review under subsection (1) is to commence as soon as practicable after the third anniversary of the day on which this section commenced.
- (3) The Governor is –
 - (a) after the end of the 8-year period beginning on the day on which this section commences, to appoint a panel of persons, nominated by the Minister, to conduct a review of the operation of this Act in relation to that period; and

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- (b) at the end of each subsequent 5-year period after the end of the 8-year period, to appoint a panel of persons, nominated by the Minister, to conduct a review of the operation of this Act in relation to that 5-year period.
- (4) A review conducted under subsection (3) is to include a review of matters, related to the operation of this Act, the scope of this Act, and the potential scope of this Act, that are prescribed.
- (5) As soon as practicable after a review under this section commences, the Minister is to ensure that a notice is published in a newspaper –
 - (a) setting out the matters to which the review relates; and
 - (b) inviting members of the public to give to the panel conducting the review their opinions in relation to the matters to which the review relates.
- (6) The panel of persons conducting a review under this section is to complete the review within 12 months after the review commences and to give to the Minister a report in writing in relation to the review as soon as practicable after the review is concluded.
- (7) The Minister is to cause a copy of the report to be tabled in each House of Parliament within 5 sitting-days after it is given to the Minister.

144. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may require any document that is required to be given to any person, for the purposes of the regulations, to be verified by statutory declaration.
- (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Commission or the Minister.
- (5) The regulations may –
 - (a) provide that any contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units.

145. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Health; and

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- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Health.